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A NEW
F A R C E;

Represented in a

BATTLE-ROYAL,

BETWEEN

Three C O C K S

OF THE

G A M E.

Containing their different

Schemes of Government,

Compar'd with the

N A T U R A L S T A T E.

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p. 40. l. 23. r. *Paramount*. p. 47. l. 8. for
Hott. r. *Hoad*. p. 58. l. 20. r. *where*. l. 26. r. *confirm*.
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EPILOGUE.

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THE



A
BATTLE ROYAL
BETWEEN
Three COCKS
OF THE
GAME.

Mr. } HIGDEN,
 } HOADLY,
 } HOTTENTOTE.

As to the State of Nature and of Government.



By a MAN of LEASURE.



PROLOGUE.



HE Rehearsal shews an *Eclips*, in the
Sun, Moon, and Earth Dancing the Hay.

The like Representation of Govern-
ment you will see in this *Battle-Dance.*

The *Sun* resembles God the *Fountain of Power,*

A Battle Royal, &c.

as of *Light*: This *Power* is reflected from Him upon the *Moon* and *Stars*, the *Governors* whom he has appointed under Him: But when the *Titans*, the *Sons of the Earth*, Interpose the *Power of the People*, they Intercept the *Rays* of the *Sun*, and there is an *Eclips* of *Government*.

This *Prerogative* of the *Sun* Mr. *Hoadly* calls the *Patriarchal Scheme* set up by the *Rehearsal*. But the *Rehearsal* places the *Original* of *Government* in the positive *Institution* of *God*, tho' at the same time he shews it to be *Consequential* and most *Agreeable* to the *Frame* of our *Nature*, as being all *Deduced* from one *Common Father*. Which *Patriarchal* or *Fatherly* Authority is not only *Founded* in *Nature*, but most *Expresly* and *Originally* in the first *Institution* of *Government* placed by *God* in *Adam*.

Now *Dr. Higden* in the *Defence* of his *View* of the *English Constitution* *Ridicules* this *Patriarchal Scheme*, as well as the *Men of Leisure* who set it up. And says in his *Preface*, p. 4.
“ That *Laws* are *Rules* given by the *Supreme*
“ *Authority*, obliging the *Subjects* to regulate
“ their *Actions* by them, in *Order* to the
“ *Publick Peace* and *Tranquility* of the *Realm*;
“ without any *Regard* to the *Patriarchal* or
“ *Popular Scheme*.

That is to say, the *English Constitution* has no *Regard* either to the *Institution* of *God*, or the *Election* of the *People*! But whatever *Government* we find over us, to *Submit* and *Obe*y for the *Publick Peace* and *Tranquillity*.

But

But he dares not stand by this, for in the Case of *Oliver* he requires us to look back and examine by what Means the *Supreme Authority* came by their *Power*; and if we find it not to be *Justly* and *Legally* Established, he Absolves us from all *Obedience* to it. This throws his *de Facto* down to the Ground, and makes every Man a *Judge* over the *Government*.

These things have been *Seriously* and *Calmly* Debated by *Men of Leisure* (though the *Doctor* is not yet over-burdened with *Business*, but is not in *Hast*) And the *Answers* made to them have studiously avoided the *Stress* of the *Cause*, and sought to divert the Readers with *Circumstantial*s of no Consequence, and long *Stories* nothing to the Purpose.

For which Reason I have here brought the Matter to be *Acted* as upon the *Stage*, that Men may *See* it, as well as *Hear* it. And let not the *Gravities* of the *Actors* be Offended, for I have done them no Injury in the *Argument*, nor put any *Affront* upon them, unless it be to Introduce them into one anothers Company.

The *Hottentote* argues against all *Government* whatsoever, for the *Natural* State wherein some suppose them to be. But I grant this *Image* is not Perfect, because they are allowed to have *Fathers* and *Mothers*, which is utterly inconsistent with that *Independent* State of *Nature*, which is necessary to make the *Choice* of the *People* the *Original* of *Government*. For

Fathers with full and absolute *Authority* over their *Families*, are in every Respect *Civil Governments*. And several of these *Uniting* together to make one *Family* or *Government*, (which some would have to be the *Original*) can no more make such an *Union* the *Original* of *Government*, than the *Union* of *England* and *Scotland* shews that there was no *Government* in either of them before ; or in the *Heptarchy* of *England*, because they are now all *Reduced* to one *Monarchy*. For *Majus & Minus non variant Speciem*. A *Family* is a little *Kingdom*, and a *Kingdom* is nothing but a *Great Family*.

Therefore such a *State* of *Mankind* where All are upon the *Level*, and the Consent of every *Individual* made necessary to the *Erection* of *Government*, as *Lock* and others suppose it, because that every Man is *Free-Born*, and that no Man's *Life*, *Liberty*, or *Property* can be *Disposed* of but by his own Consent, I say, such a *State* cannot be called the *State* of *Nature*, because *Nature* implies *Fathers* and *Mothers*; it may be called a *State* of *Mankind*, but not of such Men as we are, but of a *Shower* of *Men* Rained down from the *Clouds*, or *New Created* in *Multitudes*, like the *Beasts*, *Fish*, and *Fowle* at the *Beginning*, and no one *Dependent* upon the other. So that even the *Hot-tentote* cannot represent this *State*, which yet is necessary to make the *People* the *Original* of *Government* !

And when Men will not be argued out of such *Extravagancies*, but maintain them with

a *Grave Face*, and an *Air of Persuasion*, nay even of *Insulting*; what is to be done but to shew them in their *Colours*, to set a *Looking-Glass* before them, that they may see their *Shapes*!

The Curtain Draws, And shews the Triumvirat standing Triangular.

(1.) *Hottentote*. Come, Gentlemen, let us to Work — I have no *Art* nor *Flourishes*. I begin with you, Mr. *Hoadly*, because you are my old Acquaintance. You and I had once a Discourse about the *Original of Government*. You place it in the *People*. Against which I have *four* things to say.

1. That I suppose the *People* would never have Thought of it, but Lived on in their *Natural State*, like the *Beasts, Fish, and Fowle*. For how should they know any other than their *Natural State*? *Nature* teaches nothing beyond *Nature*.

2. A free and equal *Vote* of the *People* could never have been Collected in the *Natural State*.

3. Suppose it Collected, why should the *Major Vote* conclude the rest? Some might prefer the *Natural State*, and desire no *Government* at all. And others might differ about the *Modelling* of it, some for *Monarchy*, some for *Commonwealth*, &c, as we see it now among you. And if the one side be *Forced* by the other, then *Force* and not *Consent* is the *Original of Government*.

4. Every Man may withdraw his *Consent*, when he finds it *Prejudicial* to him. This is the certain *Privilege* of *Nature*. May not a Man change his *Opinion*? Otherwise he has not the free Use of his *Reason*. And to debar him from this, is to Divest him of the very *Nature* of *Man*. And why would you alter my *Opinion* now, if I have not a *Right* to alter it, upon better Information?

(2.) *Hoad*. But it is not *Justice* to alter it, when it is for the Good of *Others*; as upon Enttring into *Society*.

Hott. My *own Good* is to take place of the Good of *Others*. This is *Self-preservation*, which you make the Foundation of all *Society*.

Hoadly. It is really for *Your own Good* to —

Hott. What! To be *Hanged*, if the *Society* so think fit!

(3.) *Hoad*. Consider the many *Benefits* of *Society*, it is this secures all you have, your *Liberty*, your *Property*, and your *Life* too; which otherwise wou'd lye open to the Invasion of every Body, if they might do it without *Punishment*.

Hott. That is, I must let you *Hang* me quietly and soberly, for fear another Man should kill me, for whom I am an equal Match, and may defend my self from him! And to avoid the Danger of this, I must Create an over-Match for my self, and Enter into *Society*, which

which is too Powerful for me, and may Hang me up at their Pleasure!

Hoad. But *Society* will not do this. They have *Laws* to go by. And they cannot Hang you unjustly, without making a *Precedent* for Themselves, that every Man may be Hang'd by the same Rule.

Hott. And how well they observe this! This is a Remote *Prospect*, and will not *Fright* them so much, nor *Defend* me so well, as my *Sword* in my Hand against any that *Affaults* me.

And what are your *Laws*? They are a meer *Tool* to serve Men in *Power* to crush all others. It is not what you have said or done, but what *Party* you are of, or suspected to be! Whence it is a *Proverb* among you, shew me the *Man*, and I will shew you the *Law*. And it is better for one Man to *Steal* a Horse, than another to look over the *Hedge*. Have I not heard you say, He ought to be *Prosecuted*, he shou'd be made an *Example*! Why? What *Evil* hath he done? What has he said, that others have not said, and *ten Times* as much? No Matter for that.— They are our *Friends*, they may say what they will: But He is a *Rogue*, we know what he *Means*! And by the help of *Innuendo's*, and *Ironies*, we can make *Treason* of every thing he says, tho' it be for the *Government*!

Does not your *Law* turn with every *Blast* of *Wind*? Here are *Two* Fighting for the

Crown, the *Law* stands by, and waits the *Success*; and will *Hang* those that are *Beaten*, and Recognize the *Conqueror*: And if the other *Conquer* him again, then the *Law* turns to his side again, and calls him a *Usurper*, whom it own'd as the *Rightful King* before; And will *Hang* those that Fought for him, as it did those who before Fought against him!

(4.) *Higden*. And all this is Right, for the *Law* knows no *King* but him in *Possession*. Without this, there can never be any End of *Disputes*. Therefore the *Right* goes always along with the *Possession*.

Hott. Is it not easier to say, There is no *Right* at all? Or does a Man loose his *Right*, because he is *Robbed* against all *Law* and *Justice*? Thus in our *Country*, where we have no *Laws* or *Government*, if one Man snatches a *Gutt* from another, it is his own as long as he can keep it. And we trouble not our selves about *Laws* or *Right*. These are only *Words* to *Embroid* the Matter, and make *Disputes Endless*, and Create New *Disturbances*. And after all, it comes to the same as with us, that *Possession* does the Whole, let it change as oft as it will.

Hoad. Indeed, Mr. *Higden*, you have given great Advantage to the *Hottentote* by your New *Scheme*. For to say, That meer *Possession* gives *Right*, is the same as to say, There is no *Right* at all. We *Whiggs* are greatly offended at this, and the *Tories* are not

not pleas'd. It serves no Purposes on either Side, and is only an Encouragement to *Robbery* and *Injustice*.

Hig. And how does your State of *Nature* mend the Matter? To build all *Government* upon what *Nature* dictates, to make this the *Original* and *last Resort* of *Government*. This is coming directly into the Mouth of the *Hottentotes*. There we see *Nature* in its *Primitive Simplicity*. And thence we must learn what are the *Laws* of *Nature*, and what it wou'd dictate as to *Government*; being left to its self, without all that *Fucus* and *Disguise* which the *Politer* Nations have put upon it: Who yet cannot agree what these *Laws* of *Nature* are, especially as to *Government*. Therefore I am perfectly of Opinion, That there must be some *DIVINE Original* for it, and not left merely to *Nature*.

Hott. This makes the Matter harder against you, Mr. *Higden*. For to say that *Government* is the *Institution* of *God*, and yet gives no *Right*, or none but what is *Extinguished* by any *Robbery* or *Usurpation*, is to make very little of *Divine Right*; and to Subject it even to *Nature*: For *Nature* gives a Man a *Right* to *Recover* what is taken from him by *Force* or *Fraud*. And the Instances out of your own *Scriptures* seem to make directly against you. For *David* recover'd his *Possession*, and *Joash* his *Inheritance*, against those who were *Unjustly* in *Possession*; And none could

could be *Unjustly* in *Possession*, if *Possession* gives *Right*: And *David* and *Joash* were both *Rebels* and *Traytors*, by your *Rule*, because they *Fought* against those in *Possession*! But if they had not had *Success*, the *Law* wou'd have *Attainted* them both. And so the *Matter* is *Solved*!

Hoad. Take up your *Divine Right*, *Mr. Higden*, and your *Right of Possession*!

(5.) *Hott*. And you both, *Gentlemen*, take up your *Laws* and *Constitution*! They serve for nothing but *Dispute*, and to shew your *Learning*; for in *Practice* they all come to the same with us *Hottentotes* — *Quod libet, licet* — That we may justly do, whatever we have *Power* to do — To keep what we have got, and to get what we can. Only you have this *Advantage* of us, That you *Rob* in *Justice*, and *Establish Iniquity* by *Law*; And (because you must have in *Religion* too) you *Father* all this upon *God*, and call it his *Cause*; which you are sure of by His giving it *Success* (yet you *Allow* it not for a good *Argument*, when it goes against you) And to make it fully *Right*, you *Swear* to go on with it, and *Pray* to *God* to *Prosper* you in the *Breach* of His *Commandments*! For both *Sides* *Pray* thus, and both cannot be *Right*. This is the *Privilege* of you *Christians*! And this was the constant *Practice* during that long *Contest* between *York* and *Lancaster*, and GRAND
REBEL-

REBELLION from 1641 to 1660. But we *Hottentotes* can *Sin* at a much cheaper Rate. We *Affront* not *God*, nor *Banter* Him in our *Disputes*. If we *Rob*, *Kill*, or *Steal*, we carry no farther than our selves, we charge it not upon *God*, or any Body else.

And if any thinks himself *Wronged*, he has a nearer *Remedy* than your *Laws*. He *Rights* himself if he can, or else he sits down by the *Loss*. Which many wish they had done, who have ruin'd themselves by *Law*. Your *Law* is a certain *Injury*, because let my *Cause* be never so *Just*, I am put to *Charge* to *Prosecute* it. And that is a *Punishment*, it is a *Fine* upon me. And what is that *Law* which *Punishes* a Man before it appears that he is *Guilty*? I am sure to be *Punished*, but I am not sure to be *Redressed*. For after all my *Expence* and *Loss* of *Time*, and *Harassing* my very *Heart* out in *Attendance*, it is a mere *Lottery* how the *Cause* will go. How many *false Judgments* are there, and *Judgments* that are *Reversed*? *Falſe Witneſſes*, *Corrupt Juries* not to ſay *Judges*, the *Tricks* and *Quillets* of *Lawyers*, &c. So that a Man had better throw *Dice* for it at firſt. The *Law* is the *Box*, both *Gameſters* put in there; and if they *Play* long, it gets all. It is from theſe *Fools* that the *Lawyers* raiſe ſuch vaſt *Eſtates*, and live in the greateſt *Palaces* in *London*. But there is not ſuch a *Fool* in all *Hottentote-Land*, nor can be by our *Conſtitution*.

(6.) But

(6.) But pray tell me, Mr. Higden, do you allow, That *Possession* gives *Right* in *Meum* and *Teum*, among *Private* Persons, as it does to *Crowns*?

Hig. No surely. That wou'd make as wild Confusion as among you *Hottentotes*.

Hott. What is the Reason of this Difference? Has the *Crown* then no *Right* at all? Or, has every Body in the Nation a *Right* to *Recover* what is *Unjustly* taken from him, except the *King* only? If so, your *King* is in a worse Condition than the meanest of his *Subjects*.

Hig. The Reason of the Difference is this, That every *Subject* has the *Law* for his Remedy. But the *King* has the *Supreme Power*, and is *Sovereign*, and therefore above the *Law*, and cannot be *Tried* by it. And consequently, he cannot *recover* his *Right* by it. Besides, the *Law* is against him whenever he looses the *Possession*, for the *Possessor* always has the Command of the *Law*; and therefore the *Law* must *Extinguish* the *Right* of the *Dispossessed*, upon Pain of *Treason*; or else it is *Guilty* of *Treason* against the *Possessor*.

Hott. I shall never get my *Hottentotes* to understand this. The *King* is *above* the *Law*, therefore *Subject* to the *Law*! He holds by a *Tenure* immediately from *God*, therefore the *Law* can *extinguish* his *Tenure*! He is the only *Fountain* whence all the *Right* in the *Subjects* is *derived*, and yet he has no *Right* himself!

himself! He *Repossesses* others who are unjustly *Dispossessed*, but he ought not to be *Repossessed* himself! Again, the *Law* is a *Captive* to the *Conqueror*, yet the *Conqueror* is *Established* by the *Law*! So that the *Law* is above the *King*, and the *King* above the *Law* ——— Which is *uppermost*! I will carry this to the *Hottentotes*. They too *Play* at *Riddle* me ——— *Riddle* me ———

(7.) *Hoad*. You have deserv'd this, *Brother Higden*. This is the End of your *Jure Divino* and *Passive Obedience*! If you would let the *King* be made by the *Law*, and *Deposable* by the *Law*, as we *Honest Whiggs* maintain, you wou'd not have fallen under this *Dilemma*. And your bare *Possession* giving *Right*, involves you deeper and deeper!

(8.) *Hott*. Gentlemen, agree among yourselves ——— But you, *Mr. Hoadly*, I have a *Question* to ask you. You say, the *Law* made the *King*. Pray, who made that *Law*? Can a *Law* be made without the *King*? If not, then the *King* must be before the *Law*. And if you go to the *Beginning* of *Government* in the *World*, then you must shew me a *Law*, before there was any *King* in the *World*. And you must tell me, Who made that *Law*, and by what *Authority*.

Hig. Answer you that, *Brother Hoadly*. You are as deep in the *Mud*, as I am in the *Mire*! For what can be greater than to
Pawn

Pawn ones Soul for the *Truth* of what he says, or promises? Therefore we make our *Kings* take a *Coronation-Oath* to observe our *Pacta Conventa*.

Hott. And you are just as *Secure* by that, as He is for your *Oaths* of *Allegiance*! You have hidden *Distinctions* and *Reserves* in them! And you can *Transfer* your *Allegiance* to his *Enemy*, and yet be still true to your *Allegiance*; it is but changing the *Object*! As a Man may *Marry* another *Wife*, and still keep true to *Matrimony*, for it is but changing the *Object*! Had not you as good come to our *Fashion*, to have no *Oaths* at all, but *Deal* with others, as they *Deal* with you? This wou'd be more like *Gentlemen*, and *Honest Men*. You take a Man's *Oath*, because you will not trust his *Word*. And I am sure I wou'd not trust that Man's *Oath*, whose *Word* I cou'd not take. For I must think him a *Knave*. And no *Oaths* will tye such a One. So that you make a *Net* to let through the great *Flies* that can hurt you, and catch only a few *Honest*, *Scrupulous* Folks, who will not take an *Oath*, because they think themselves obliged to *keep* it. How can a Man *keep* contrary *Oaths*, which happen in all *Revolutions*? Then come out your *secret Reserves* and *Distinctions* (which wou'd have been *Treason* before) and make you a *Jest* to the *Hottentotes*! Can you Name one of your *National Oaths*, that have not been

as *Nationally Broken*? Yet you go on still in the same *Track*!

Let me ask you both, *Gentlemen*, suppose you should make use of the like *Distinctions* and secret *Reserves* in your *Promises* and *Engagements* betwixt Man and Man, as in *Trade*, suppose with us *Hottentotes*; What Opinion, do you think, we should have of your *Justice* and *Honesty*? Wou'd any Mortal have *Dealings* with you, or believe one *Word* you said? But if you have more *Regard* to your *Honour* in *Trade* Abroad, than to your *Oaths* at Home; What *Notion*, think you, will this give us of your *Religion*?

Hig. } We cannot deny but these *Oaths*
Hoad. } have given Great *Scandal*. And we both wish with all our *Hearts* they had never been *Imposed*. They are a *Load* upon Us, though we *bear* it *Willingly* and *Freely* — Yet we wou'd be glad to get rid of it, for who wou'd not be *Eased* of a *Burden*? And we cannot say, but it is some *Trouble* to Us to *Defend* them!

(9.) Hott. Now consider that all this comes upon you from that Thing called *Government*. If you had none, you cou'd have no *Revolutions*, nor any of these *Convulsions* of *State*, which *Confound* and *Distract* you; make you draw your *Swords*, and Sheath them in one anothers *Bowels*, and that for *Years* and sometimes *Ages* together, before things can be settled, and Return to their old *Condition*, which you call *Constitution*.

Hig.

Hig. } But even all this is better than
Hoad. } no Government at all. For then every one would be left free to *Destroy* and *Kill* one another to the End of the World, and we should not have one Hour of *Quiet* or *Security*.

Hott. Left free ——— Yes, why should not every one be left *Free*? Do not you love *Freedom*? Are you not *Fighting* for it? How many thousand *Lives* has it cost you to *Defend* your *Freedom*? Are you not *Free-Born English Men*? And what is *Freedom*, but to do every thing I please? If I am *Refrain'd* in any thing, my *Freedom* is taken from me. And then I must not do what I please, but what You please. This you call *Government*. But it is a perfect *Contradiction* to the *Law of Nature*, which sets every Man upon the Level. *Subjection* and *Freedom* are as *Opposite* as *East* and *West*. Where the *One* is, the *Other* cannot be. Yet you say, you are *Free Subjects* ——— *Free* and yet *Subject*! *Senseless* and *Silly*! Never talk of a *Hottentote's* Understanding any more.

(10.) *Hoad.* By *Liberty* we do not mean a *Lawless Licentiousness*, to do what we please: But a *Liberty* under wholesome *Laws* for our *Good*.

Hott. Ay! There's a Fellow going to be *Hanged* for his *Good*! His *Hands* are tyed behind him, and he has a *Rope* about his *Neck*, yet he is perfectly *Free*! Do not think

think to *Banter* us *Hottentotes* at this *simple* Rate! You are the *Hottentotes*, the *Mad*, the *Foolish* Fellows you call us!

Hoad. Hold! You Run too fast, Sir. We are *Free*, because the *Government* cannot *Hang* us for what they please, but they are Bounded by *Law*, and we must have a fair *Trial*, and by our *Peers* too.

Hott. So you are *Free*, because you are *Hanged* by a *Fury*! But what think you of an *Act* of *Attainder*, which can *Hang* you up without any *Trial*, or giving you any *Reason* for it?

Hoad. This is part of our *Constitution*, that the *Parliament* should have such a *Power*, in *extraordinary* Cases.

Hott. Yet you are *Free*! And these Cases happen as oft as the *Parliament* pleases. They are not *Tyed* to any *Rule*, but may make use of this *Power*, whenever it comes into their Heads.

Hoad. Well, but the *King* cannot *Hang* us at his Pleasure.

Hott. That is, You are not at the *Mercy* of one Man, but of *five hundred*! O! *Delicate Freedom*!

(11.) *Hig.* You Run your self a Ground, Mr. *Hoadly*, with your *Whigg* and *Republican* Principles. I put the *Supremacy* and whole *Sovereignty* in the *King*, and not in the *Parliament*.

Hoad. Yet you Quote *Acts* of *Attainder*, to
C Justify

Justify your *de Facto*. And make an *Act* of Parliament of the *Usurper*, sufficient to *extinguish* the *Right* of the *Dispossessed Prince*. As in your *View of the English Constitution*, p. 86, 87.

(12.) Hott. This Dispute of *King* and *Parliament* makes you *Blunder* on both sides. You know not where to fix your *Government*. Some say it is in the *King*; others, that it is in the *Parliament*; and others again, that it is in *Neither*, but only in *Both* together. You had a *Civil War* betwixt *King* and *Parliament*. And for *King* and *Parliament*, when they were *Fighting* against one another! This confirms me in my *Opinion* against any *Government* at all. For it is better have *None*, than not to know where it is, and to be cutting *Throats* about it!

(13.) Then again I consider how *Nations* go to *War*, and *Rebellions* are raised, about nothing else, but what the *Name* of their *King* shall be. What else was the Matter in that long *Civil War* betwixt *York* and *Lancaster*? It was not a *Farthing* to the *People* whether *Richard II.* or *Henry of Lancaster*, was their *King*. The One might have *Governed* them as well as the Other. What was it to *Poland*, whether *Conti*, *Augustus*, or *Stanislaus*, were their *King*? They are all *Honest Gentlemen*, and any of them might have done very well. What is it to *Spain* whether *Philip* or *Charles* wears

wears the *Crown*? Therefore I call it only a Contest about the *Name* of their *King*. And when I see *Ambitious Men Persuading*, or *Forcing* whole *Nations* to *Kill* and *Destroy* one another about their *Rights* and *Titles*; is it not better to have no *Rights* or *Titles* at all? But to let *Mankind* live *Quiet* and *Secure* in their *Original Freedom*, and *Independent State* of *Nature*?

(14.) *Hig.* } However we may differ be-
Head. } twixt our selves, yet we must not let this go away with you. We are both for *Government*, tho' we may not Agree about the *Measures* of our *Submission*. But to have no *Government* at all, would put us in the Condition of *Brute Beasts*, to *Tear* and *Eat* one another.

(15.) *Hott.* Whether are more *Beasts* *Destroy'd* by *Beasts*, or *Men* by *Men*? And which is most *Generous*, the *Methods* by which *Beasts* or *Men* *Circumvent* one another?

Birds feed on Birds, Beasts on each other Prey;
But savage Man does only Man Betray:
Press'd by Necessity, they Hunt for Food;
Man Undo's Man, to do himself no Good!

The *Cannibals* are more *Rational* than you are. For they *Eat* their *Enemies*, there is some *Use* in that. But you *Kill* for *Killing* Sake! Nay, where you have no *Spleen* nor

Malice to Gratify! Thus *Nations* are called out to *War*, and *Destroy* one another; whom they never saw before, not a *Man* of them, but wou'd *love* them and live *Friendly* with them, if they were left to themselves, to follow their own *Nature*; but now must count them their *Enemies*, and *kill* them, because so *Commanded* by their *Governors*, to satisfy their own *Ambition*, *Revenge*, or *Freak*: And if they do it not willingly, they shall be *pressed* and *forced* into the Mouth of a *Cannon*, and leave their *Wives*, and *Children* to *Starve* at *Home*! This is the *Benefit of Government*! And more *Men* are *Destroyed* by this, than *Beasts* by *Beasts*. We *Hottentotes* sometimes *Quarrel* among our selves, as you do; and sometimes a *Man* may be *Killed*. But not so many in many *Ages*, as in an *Hours* time with you, upon a *Field of Battle*! You make an *Art of Killing*, and they are the *Bravest* *Men* who are most *Skilful* to *Destroy*! He whose *Trade* it is to *kill* a *Beast*, is a *Butcher*; but he who *Butchers* *Men* is a *General* and an *Hero*! And all the *Excuse* is, That without this, your *Government* cannot be supported! Are not we then well *Rid* of it, and *Live* we not more *Lovingly* together, and more like *Men*? We shew you what the *Original* and *Independent* *State of Nature* is. And what has *Mankind* got by leaving this *Happy State*, and *Erecting Government* among themselves, as you *Mr. Hoadly*, suppose the *Case* to be?

(16.) *Hoad.* To Government we owe the *Civilizing of Mankind*, and *Cultivating Arts and Sciences*. Look upon the *Governed* part of the World, what *Glorious Cities* do you see; what *Sumptuous Courts and Palaces*; how many *Universities, Colleges, and Schools*, for *Philosophy, Divinity, Law, Physick, &c. Academies*, for *Painting, Sculpture, Statuary, Dancing, Fencing, Riding, &c.* *Stately Exchanges and Halls for Trade*; *Noble Courts of Judicature*, and *Beautiful Inns of Court*; *Large Edifices* for several *Mechanical Operations*; especially for *Navigation*, so *Necessary and Beneficial to Mankind*, in carrying on *Trade and Commerce* through the World; and lastly the *Arts of War*, which are wonderful *Encampments, Fortifications, Engineering, Mines, Counter-Mines, &c.* And let me add, *Capacious Libraries*, containing *Books* which *Teach* all these and many other things; what *Variety*, what *Improvement of Knowledge and Learning* do you see here? And this in our *Opinion*, makes one *Man* differ from another, as much as *Man* from *Beast*! Whence we think you *Hottentotes* retain little of *Human Nature* but the *Shape*! And all these *Accomplishments* we owe to *Government*. Without which we should be in as *Dark Ignorance* as you.

(17.) *Hott.* Sir, I have *Travelled* through many of your *governed Countries*, and made my *Observations*. And the more I consider

Their STATE and Ours, I find more and more Reasons for preferring Our Own. First, Ours is the Original State of Mankind, for which, you, Sir, have so much contended. And all of you allow these First to be the Purest Ages, before they knew all that Craft, and Dissimulation, that Violence, Pride, and Ambition, which have since filled the World with unspeakable Miseries! And for that Knowledge you Boast of, it is of that Sort which you say deceived our first Parents: It has shewed you indeed Good and Evil, but much more Evil than Good. As I have said before of Government, it Creates more Evils than it Cures. It not only Invites and gives Occasion, but it forces us to kill and destroy one another, by Art and Rule; we are Commanded to do it, and it becomes our Duty, of Obedience to our Governors! And to prevent one Man killing another, in the Natural State, you Destroy by Thousands and Millions! And because Neighbours may fall out among us, you set Nations together by the Ears, who are Strangers, and have no Quarrel at each other; and you spread War over the Face of the Earth! And the whole Ground of this War is Dominion! It is This will not let the World have Peace!

And as to all those Fine and Curious Inventions, for which you say you are so much obliged to Government; they move not my Envy, but my Pity, to see Men Create a Thousand Necessities to themselves, and then
 spend

spend all their *Time* and their *Wit* to supply them in the best Manner they can, and boast of their *Invention*! As if I should break your *Legs*, to shew you the Convenience of *Crutches*! Such I esteem all your *Arts* and *Sciences*, and what you call *Learning*, to lead a Man's Thoughts out of the Way, to things that do not belong to him, which make him neither the *Better* nor the *Wiser* Man, but a mere *Philosopher*, who, according to your own *Proverb*, is a mere *Ass*. And for the wonderful Improvement of your *Mechanicks*, in fine *Buildings*, *Curious Pictures* and *Statutes*, *Rich Furniture* and *Equipages*, *Variety of Fashions* in your *Cloaths* and *Dressings*, and *Rarities* in abundance — They only shew me how many things there are which I have no need of. It makes me Laugh to see a *King* Sweating under a heavy *Crown*, and a great *Load* of *Velvet* and *Embroidery*, which they call his *Robes*! But you say, these things are necessary to *Government*! And are not they *Wise Men* who are charmed with such *Showes*! What is a great *House*, and what you call a *Noble Seat*, but a *Baby-house* for an Old *Child*, who loves to look at *Pictures*, and will Cry if one of his *Play-things* is broken! Then the Plague of *Attendants* and *Visits*. To have a *hundred* Fellows Running after one, and hunting him Day and Night, that he has not an *Hour* to himself; and all *Spies* upon him, to watch every *Word* and *Action*! And a *Prince* must have *Guards* to save him from these, and

he knows not who, that may have a Mind to try how that *Crown* and *Robes* wou'd fit himself! And he must watch his *Guards*, for sometimes they too *Murder* him. A *Hottentote* wou'd not know a *Prince* from a *Prisoner* by his Armed *Equipage*! The *Prince* is the perpetual *Prisoner* all the Days of his Life! But this you call *State*! And the lesser *Quality* have their *Guards* of *Attendants* too; and He is the *Greatest* Man who has *Most* to *Provide* for! And tho' a small Matter wou'd feed himself, he must furnish a Table every Day for *Comers* and *Goers*! And what a *Slavery* do you bring upon your selves by what you call *Good Breeding* and *Manners*? You must make and return *Visits*, where you have neither *Business* nor *Kindness*! And you must learn the *Chat*, to *Complement*, that is, *Lie* to all that are present, and *Censure* them as soon as they are gone! This *Article* and *Dressing*, is the *Business* and *Accomplishment* of *Ladies*, and employs most of their *Time*! But that is Innocent to what you call *Court-Language* in *Men*, to *Cut a Throat* with a *Feather*, to pay all the *Civility*, and make all the *Professions* in the World, to the Man you intend to *Supplant* and *Ruin* by it! And this is a fine Thing you call *Politicks*, without which a Man cannot make his way in a *Court*! And what is all this *Impertinence*, all this *Wickedness* for? To get these *Play-things* you call *Riches* from one another! This has weary'd some *Great Men*, even *Kings*, to that Degree, as to throw
away

away these *Baubles*, and *Retire* to the *Pleasures* of a *private Life*; where they might spend some of their *Time* to their own *Benefit*, and not have it all laid out in doing the *Business* of other Men!

Now we *Hottentotes* are free from all these *Cares* and *Troubles*, for we have none of these *Necessities* upon us. We eat *Roots* and *Fruit*, and sometimes *Guts* and *Garbish*, and Live *Long* and *Healthy*. While your *Dainties* cut you off in the middle of your *Age*, with *Gout*, *Gravel*, and racking *Diseases*; you invent *relishing Bits*, and *appetizing Sauces*, to make you *Eat* more than *Nature* requires; and you *Drink* not to quench *Thirst*, but to commit *Excesses*, and turn your selves into *Beasts*! But who will *Debauch* in our clear *Springs*? This is the *Drink* which *Nature* has provided for us. This Clouds not our *Reason*, nor makes us *Mad*, nor Ruins our *Health*.

We go *Naked*, as your ancient *Britains* did, and are all *Face*, we catch no *Cold*. We have no use for *Beds*, the *Heavens* cover us, and the *Earth* is our *Pillow*. In *Storms* and *Rain* we get into *Caves*, the true Use of *Houses*; but you make them so *Fine*, that you *Live* in them, and debar your selves of the clear *Air*. And half your *Servants Work* is *Washing* and *Scrubbing* your *Houses*, *Dusting* and *Airing* your *Beds* and *Furniture*, that they *Stink* not under you; which yet when you have done your best, are *Musty* in Comparison of the free *Air* that we *Breathe*. You get out into it sometimes,

times, which you call, *Taking the Air*, but we have it continually. And to indulge your *Delicacy*, you make *Places* in your *Houses* for all your *Filth*, even in your *Bed-chambers*, lest the *Air* should blow upon you! The *Nastiness* of a great *House*, or a great *Town*, is more than you will find in all the Land of *Hottentote*. We have no Use for your *Scavengers* or *Gold-finders*, nor wou'd we endure such Company, as *Homely* as you think us. I wou'd not live near a *Peuterer*, a *Smith*, or *Brazier*, for the *Noise*; nor within *Smell* of a *Soap-boiler*, a *Tallow-chandler*, or a *Felt-maker*, for the *Stink*; nor of a *Glass-house*, or *Brew-house*, for the *Smoke*: Yet these fill your great *Cities*; and *Brick-kilns*, choak up the *Air* about them. Much good may it do you with your *Manufactures*, without which you cannot *Live*, and we *Live* much better without them.

And what are your *Curiosities*? Can a *Painter* draw a *Tulip* so Beautiful as the *Original*? How faintly do your *Colours* represent a *Rain-Bow*, or the *Stars*? How silly is a *Picture* or *Statue* of the *Sun*? Believe me, Sir, we cannot help thinking these any other than mere *Trifles*, to please *Children*! And we think our selves more *Men* in *despising* these, than you in *Admiring* and *Gaping* at them! Even the *Ugliest* of them, as your *Chinese* Figures of *Cocks* and *Bulls* which now adorn your *Houses*!

And for your *Ingenuity* in the *Art of War*, keep your *Inventions* to your selves, we envy you

you not! We can decide our Controversies with a little *Fifty-cuffs*, and what Arms Nature has given us; to *Scratch* and *Bite* is much *Safer*, tho' not so *Graceful*, as your *Cannons*, *Bombs*, &c! And *Mankind* is little obliged to the *Curious* in these *Arts*! We have no *Thieves* or *Robbers*, for we have nothing worth their *Stealing*. We have no *Ambition*, because we have no *Dominion*. We have no *Want*, and you *Want* every thing! Nature makes but few *Wants*, and provides plentifully for them: But *Pride* and *Luxury* make many, even as many as a roving and wanton *Imagination* can Suggest! There is a *Bird* in the *Indies* has a curious long *Tail*, and I must fend all the way thither to get one of the *Feathers* to stick in my *Cap*, and then how *Fine* I shall look! And there is a pretty shining *Pebble* grows in some of these Mountains, wou'd make my little Finger *Glitter*! Yet you *Laugh* at us for adorning our selves with *Shells* and *Feathers*! There are *Hot-suppings* among the *Turks* made of a *Black Berry* grows there, I must have some of them! And I must Smoke *Tobacco*, tho' it *Stinks*, and at first makes me *Sick* to Death, because the barbarous *Indians* do it whom I despise! And now it is so *Necessary* to me, that I shall be *Sick* without it, I had rather want my *Dinner* than a *Pipe* of *Tobacco*! And I must have *Earthen-ware* from *China*, tho' I have as good for Use, at Home! How *Necessary* is a *Salt-spoon*, and *Sugar-Tongues* for my *Tea*! In short, these and the like

like *Articles* make up your *Trade*, without which you think you could not *Live*; and *Nations* are at *War* about it, and keep a watchful Eye upon each other for nothing so much as for *Trade*! Which yet brings you not one thing, your *Fore-fathers* did not very conveniently *Want*; and were they now alive, it wou'd take some time to instruct them in the *Use* of your **NECESSARY** *Superfluities*! And what good has *Navigation* done, except to encrease these *Necessities*, and Transport *War* from one *Nation* to another? How happy wou'd your *Britain* be, if there was not a *Ship* in the *World*? You wou'd then be out of fear of *Invasions* from your *Neighbours*. And what if you knew not there was any *World* beyond your selves? Do you want *Company*? You are not yet acquainted with all in your own *Island*. And there are *Parts* of the *World* you have not yet found out. Is there no *Happiness* but in *Roving*? You see fine *Houses* abroad, and you cannot Rest till you make the like at home! But what are your lofty *Towers*, and high embowed *Arches*? Can you shew me any like the *Cope* of *Heaven*, which I see continually? I need not *Travel* for it. And when I look to *That*, your *Stately Buildings* appear less to me, than a *House* a *Child* makes of *Clay*, or *Cards*, does to you. And I *Laugh* when I see a *Puff* of *Wind* throw them down! All your *Art* is but to imitate *Nature*, and that much more faintly than a *Child* does *Ape* a *Man*. You say, *Custom* is a second *Nature*.

How

How many *Natures* then have you made to your selves? And all *These* must be supply'd, as of *Necessity*! Hence come all your *Mischiefs* and *Inconveniencies*; no body Robbs upon the *High-way* for Want of *Bread*; but he was Born a *Gentleman*, and cannot *Work*; he must have his Bottle of *Wine*, and good *Cloaths*, and *Money* in his Pocket, to keep good *Company*! All this comes from your *second Nature*! This makes a *Child* grudge the *Life* of his *Father*, that he may have his *Estate*. And wou'd you have us gather *Riches*, to put this Temptation in the way of our *Children*, and may be to cut our *Throats* for them, as is seen among you? And these are of no *Use* to the *Nature* which *God* has given us. He made Man *Perfect*, but they have found many *Inventions* to make themselves *Miserable*! We teach our *Children* to *Hunt* for their daily *Food*, as we do; and they *Love* and *Serve* us. No *Hottentote* was ever yet *Afraid* or *Jealous* of his *Son*, We have no *Graneries*, nor do we mistrust *Providence*, which provides for the *Beasts* and *Fowl* who have no *Store-houses*; and we think our selves better than they, and that *God* will *Provide* for us too. We trust him with our *Lives*, and ask no more than our *Food* from *Day* to *Day*. But you *Christians* who boast much of your *Faith* in Him, will not trust him further than you can *See* him, as the *Saying* is. How do you *Twist* and *Screw* your *Conscience* when it goes *Athwart* your *Gain*? You serve *God* no further than He can agree

agree with *Mammon*, though you *Preach* that no Man can serve these two *Masters*! If this be true, how Happy are we *Hottentotes* who have no *Mammon*! That *Devil* cannot come where Men live according to the State of *Nature*. But He is a greater *Prince*, and Rivals *God* more amongst you, than all the other *Devils* of *Hell*! For you make a *God* of your *Belly*, of your *Pride*, *Lusts*, and *Pleasures*, and these cannot be supported without *Mammon*. How many *Gods* has this *second Nature*, the *Customs* and *Habits* you have Contracted, Created to you? Yet you plead *Nature* as an *Excuse*, it is *Nature* prompts you! Whereas every one of these *Desires* which hurry you out of your *Reason* and *Religion*, are unknown to *Nature*, and are merely your own *Inventions*, which by *Custom* you have made a *second Nature* to you, and now you cry you cannot help it!

(18.) *Hig.* { You *Hottentotes* live like
Hoad. { *Beasts* in a *Common*. None
 has any *Property* but in the *Mouthful* of *Grass*
 he *Eats*, which another has not *Snapt* up be-
 fore him.

Hott. And is not that as well as you *Beasts* in a *Park*, who are *Hedged* in, that you may be more easily *catch'd*, and *Knock'd o'th' Head* at your *Governors* *Pleasure*?

Hig. { Have we not *Property* at least in
Hoad. { our *Wives* and *Children*?

Hott. *Nature* teaches even *Birds* and *Beasts*
 to

to take Care of their *Young*. But that no longer that till they can take Care of Themselves. And for *Wives*, *Nature* knows no such thing, as for a *Man* to engross a *Woman* to himself, it is an Injury to any other *Man* who has a Mind to her. It is like *Paling* in a *Park* out of the *Common*, and Infraction upon the *common* Good. And tho' a *Man* hate his *Wife*, and she him; yet they must live together, like *Dogs* and *Cats*, and neither of them at Liberty to choose where they like better. I am sure this is against all the *Laws* of *Nature*, which would never thus confine it self.

Hoad. But suppose a *Company* of *Men* should agree thus to confine themselves, and should think it for their Good?

Hott. To confine themselves, do you say? You mean to exclude others. For that is the End of all *Combinations* of *Men*, let it be for what Purposes soever. As to erect themselves into *Societies*, to give to any a *Property* in their *Goods*, or in their *Wives*; all this is *Exclusive* of others. And is a plain *Encroachment* upon the *Law* of *Nature*, which has left all things in *Common* to all *Men*. And therefore they who would *Engross* to themselves, are publick *Enemies*, and *Rebels* to the *Law* of *Nature*, and ought to be treated as such, by all who love the glorious *Liberty* and *Prerogative* of *Humane Nature*, in which only we are *Free-born*; for after *Laws* and *Society* come in, all under it are *Born Slaves*, that is, under the absolute *Dominion* of what you call the

the *Legislature* in every *Society*: And whether that be in the Hands of *One* or *more*, it is all the same as to the Destruction of *Liberty*; for what is it to me whether I am *Hanged* by the Command of *one Man*, or of *Five Hundred*? Nay, the *more* that have Power over my *Life*, it is the worse for me, and my *Liberty* more in Danger. It is *Senseless* to call this *Liberty*; but still more so, to say it is *Dictated* by the Law of *Nature*, for it is in downright *Opposition* to *Nature*, and a *Contradiction* to that *Liberty* which it gives.

(19.) *Hig.* Indeed, Mr. *Hoadly*, I think you are worsted as to your *State of Nature*. You can never make *Government* arise out of it. You had better come to my *Scheme of Divine Institution*. This is the only Foundation upon which *Government* can stand. There must be an *Authority* Superior to *Man*, to Erect *Government*; and from whence the *Obligation* to it, as to *Conscience*, must flow.

Hoad. So, so, You take Part with the *Hottentote* against me! But I think your *Scheme* less Tenable than even His. For you give a *Divine Authority* to *Government*, yet make *Humane Authority* Superior to it; Nay, even *Chance*, the Loss of a *Battle* or so; Nay the most damnable *Wickedness* of *Treason*, *Treachery*, and *Robbery*, to *Extinguish* all the *Right* it has!

(20.) *Hott.*

(20.) *Hott.* I see no likelihood that you Two will agree. But before I take leave, I desire to be Heard one Word in behalf of the *Constitution* of my Country, which may give you some Light in this Dispute.

Hoad. Your *Constitution*! Why, you have none at all. Can there be any *Constitution* where there is no *Government*?

Hott. Sir, We have *Government*.

Hoad. How! Have you not been Arguing all this while as if you had no *Government*? Have you been *Bantering* us?

Hott. Gentlemen, I ask your Pardon—— But it is even so. I was willing to hear all you could say upon the *Natural State*, and finding you thought us *Hottentotes* to be in that *Condition*, I therefore *Acted* the *Part* as well as I cou'd. But I assure you we have *Government*, and that *Kingly* too. There are several *Kingdoms* among us, and a *King* over every one of them. So that, Mr. *Hoadly*, you must go somewhere else to find an *Example* of your *Independent State* of *Nature*.

Hoad. Then I am finely Cheated! I thought my self secure of you *Hottentotes* for my *Independent State*. But what are you? What Account do you give us of your *Country*?

Hott. We are known by the Name of *Cafri*, which in our Language signifies *Lawless*, not that we are without *Government* (as you Fancy) but without *Laws* as *Checks*

D

upon

upon our *Kings*, who determine all our Controversies as they think fit. Our *Country* is called *Cafraria*, and divided into many *Colinies* or *Kingdoms*, which extend over a great Part of *Africa* about Six Hundred *Miles*. The most *Barbarous* sort of us are those about the *Cape of Good Hope*, who only are known to the *English*, who call in there in their *Voyages* to the *East Indies*. But we have no *Commerce* with you, so you know little of us. But you give us the Name of *Hottentotes*, from the Word *Hottentote*, which we Repeat often in our *Dances* every *New Moon*. And you do but *Guess* at our *Religion* or *Government*, which because you know not, you *Fancy* we have none.

We have not such *Stately Edifices* as you in *England*, but we have *Huts* and *Houses* which serve us for all the *Conveniencies* of *Life* that we want; but we *Build* them not so *Fine* as to be afraid to make use of them, and live in the worst Part to save the *Best*. Our *Food* is *Plain* and *Natural*, and adapted to our *Stomachs*, not our *Stomachs* to our *Meat*. Whence we have no *Surfeits*, and those *Diseases* are unknown to us which fill your *Bills* of *Mortality*; and we live *Healthy* and *Strong* to an *hundred Years* Generally, many to *one hundred* and *twenty*, or *one hundred* and *forty*, and are *Active* and *Robust* in our *Bodies*,

Our *Kings* have frequent *Wars* with each other.

other. And we generally *Sell*, some *eat* their *Captives*. So that we are not in that *Happy State* of *Nature* I have described, and which is not to be found upon the *Face* of the *Earth*. I painted it more according to my own *Fancy* than true *Nature*, which is a more *furious* and *ungovernable* thing than to be kept within any *Bounds*, unless *Restrain'd* by the *Yoke* of *Government*. And they who would throw off this *Yoke* are called in your *Scriptures* *Sons of Belial*, which *Word* signifies *Literally*, without *Yoke* or *Restraint*. And a *Nation* of these would soon make themselves an *Aceldama*, while there was but *Two Men* left. For it is *Natural* to every *Man* to affect a *Superiority* over another, and as *Natural* to *Resist* it. We see this in *Common Conversation*, how uneasy it is to bear *Contradiction*, though about a *Notion* only, of no manner of *Consequence*! It is like *Quarrelling* about the *Game*, though you *Play* for *Nothing*! There is a *Natural Pride*, which hates to be overcome! How then should Men *Agree* about *Meum* and *Tuum*, and real *Interest*! This will *Separate Friends*, and turn them into *Enemies*. And we have these *Grounds* of *Quarrel* among us, for we have our different *Interests*, and *Property* in our *Goods*; our *Wives* and *Children*, for we too have *Marriage* among us. If I kill a *Deer*, I will not suffer another to take it from me; far less to take my *Wife* or *Child*. For

there is nothing wherein there is a more Natural *Rivalship* than about a *Woman*. Hardly *Two Men* could agree in this, if there were but *Two Men* and *Two Women* in the World. And if there were not some *Authority* to make every Man's *Wife* his *Property* and his *Right*, what could *Restrain* the *Violence* of *Mankind* in this *Rivalship*? One *Fine Woman* might set a *Nation* by the *Ears*. I am sure *Nature* could never *decide* it, for every one would *Plead* his own *Nature*. And it is the like in all other *Disputes* concerning *Right* and *Property*. My little *Hut* is as much my *Castle*, that is, my *Right* and *Protection*, as your *Great House*; and I have as much *Right* to *Defend* it. A *Bird* will *Defend* its *Nest*, and a *Fox* his *Hole*. Even they could not *Live* without *Property*. Nor could their *Property* be any *Property* to them, or give them any *Right*; if they were as *Cunning* to *Distinguish* as *Men*, and *Plead* the equal *Right* of *Nature* to all; which could not be taken away or *Forfeited* by a *Chance*, by one Man's lighting first upon any thing: And *Government* would be as *Necessary* to them as to us, if they had the same *Ambition* and *Designs* upon one another as *Men* have. Therefore what I urged before of the *Benefit* of *Mens* living as *Harmless* with one another in the *State* of *Nature*, as *Beasts* do, was all a *Sophism*, and took not in the whole *Case*; for there are other *Ingredients*

Ingredients in Man, I have now mentioned, which make the *Case* of Men and *Beasts* differ vastly.

(21.) Besides, *Nature* has not made *Beasts* capable of *Government*. Yet there is an *Instinct* in them which leads them to an *Image* of it. There is a *Dux Gregis* among *Cattle*, who has the *Ascendent* over the rest, and they follow him. There is a *Master-Bee* in every *Hive*, bigger then the others, and whose *Apartment* is four times as large as any of their *Cells*. Who never goes out to *Work*, but is *Served* by all the Rest. Who is their *Principle* of *Unity*, and when *Dead*, they all forsake the *Hive* and *disperse*, their *Government* is dissolved; they leave their *Combs* and their *Honey* behind, as if gather'd only for the *Use* of their *Sovereign*. Upon a *Swarm*, one who had a *Mind* to try the *Experiment*, caught the *Master-Bee*, and carry'd it away; upon which, the whole *Swarm* immediately dispersed, all *Flying* up and down, as if in *Quest* of their *Leader*: Then the *Gentleman* took the *Master-Bee*, and having first pull'd off its *Wings*, laid it on the *Corner* of a *Grass-plat*, at a *Distance* from them, but within their *Hearing*; as soon as they heard its *Voice*, they all straight flew to it, and lighting on the *Ground*, crept round and round it, *Encircling* it, till it was in the *Center* of them all, and none offer'd

to *Fly* away from it. The Gentleman then took it from them again, and placed it in another *Corner* of the *Grass-plat*, and they did the same again. And having repeated this several times, he at last *Killed* it amongst them: Upon which, they kept their *Stations* round the dead *Body*; and the Gentleman could not force them from the Place, till he had taken their dead *Governor* quite away, that they knew not where to find the *Body*. So much more Perfect is this *Image* of *Government* which *Nature* has Planted in these *Animals*, than what *Belial* has left amongst *Us*. For these know no *Distinction* or *Reserves* in their *Obedience*.

(22.) *Hoad*. That is, because they are *Beasts* — And such are all who *Obey* without *Reserve*, and *Tamely* give up their natural *Rights* and *Freedom*.

Hott. If they do not *Tamely*, they must do it by *Force*. For let them *Struggle* on, till one *Half* of them is *Destroyed* by the other, they will still find themselves just in the same *State* as when they began, that is, under the *Absolute Dominion* of *Some* or *Other*; and whether their *Deliverers* will prove better *Governors* than those they *Dispossess*, is a *Hazard*, and seldom seen in the *World*. So that, as I said before, the whole *Contest* is only about the *Names* of their *Governor* or *Governors*; for change *Mankind* round, you will find them much alike,

alike, all desirous of *Power*, and that *Absolute* in *Themselves*, though they will not allow it in any *Others*. And this is the *Humour*, or *Nature* (if you please to call it so) of *States* and *Parliaments*, as well as of *Kings* and *Princes*. It is *Mankind* still, and they cannot *alter* their *Nature*. So that the whole Matter in Debate comes to this, whether it is better for the *Community* to sit down Quiet and Contented with what *Government* they have, rather than seek to mend it by changing the *Persons*? Especially taking in this Consideration, That every new *Experiment* of this Sort, will cost more *Lives*, and Destruction of *Liberty* and *Property*, than the worst *Governors* ever were in the World could find in their Hearts to *Inflict*, or indeed is in their *Power*; for if a *Prince* should Command one *Half* of the *People* to *Massacre* the other, he could not expect to be *Obey'd*, but rather *Deposed* by both Sides: For *Nature* will *Rebel* against *Principles*. And this is an *Awe* upon the most absolute *Monarchs*, insomuch that whatever we may suppose their *Will* to be (which cannot be to *Destroy* their *People*, unless they are so stark *Mad* as to wish their own *Destruction*) yet no *Example* of it has yet appear'd since the Beginning of the World. But *many* and *many*, of *People* who have *Ruined* and *Destroyed* their *Country*, in their Contest for *Liberty*, till they left the *smallest* Part remaining to

Enjoy it: And these still under the same *Necessity* of *changing* again, and for ever, while the *Government* is in the Hands of *Men*.

(23.) *Hig.* I must here join with the *Hottentote* against you, Mr. *Hoadly*. For he is come in exactly to my *Scheme*, that is, to *Submit* to every *Government* in *Possession*. For this only can save us from these unavoidable *Convulsions* which Accompany every *Change* of *Government*.

Hott. You say well, Mr. *Higden*, if this would cure it. But consider, That every *Government* pretends to some *Right* or other, I mean a *Right* besides the bare *Possession*. This is an universal *Notion*, implanted in all *Mankind*; and to go against it, is to alter the *Nature* of *Man*. You cannot find a *Government* ever was in the *World* which did not set up some *Right* besides *Possession*. But in *Hereditary* Governments, it is Apparent. Therefore we must find a way to make this *Permanent*, and to prevent *Usurpations* upon it. And the greatest *Security* in these sort of Governments (as indeed in all Others) is to make them *Indefeasible*, which is, That no unjust *Dispossession* of them shall *Extinguish* their *Right*; this Arms *Mankind* against the *Usurper* for ever whilst the *Right* remains. And this is a greater *Terror* to *Usurpation*, than the *Hazard* of getting into *Possession*;
which

which is often done *at once*, or by a *Trick*, always by *Fraud* and *Injustice*. And if this should give *Right*, it would be an *Encouragement* to perpetual *Usurpations*, a *Reward* instead of a *Punishment*. Who wou'd not venture to *Leap* into a *Throne*, that *Secured* him for ever? Besides the natural Abhorrence of the *Notion*, That *Wickedness*, by arriving at its *Height*, becomes *Just* and *Right*! Your *Apostle* says, that *Sin* when it is *Perfected* bringeth forth *Death*; but you say, it bringeth forth *Righteousness*, and acquires a *Divine Commission*! The *Act of Usurpation*, you own, is a *Sin*, and ought to be *Repented* of: Can then my *Sin* take away the *Right* of another? And does not *Repentance* oblige to *Restitution*? And can it be *Conscience* to Fight against that *Restitution*? Is it a *Christian Principle* that *Success* gives *Right*? Is it *Providence*? Then *Christ* must give Place to *Mahomet*, and both to us *Pagans*. And is there not the same *Providence* in all *Robbery*? But is *Robbery* a *Sin*? And yet is it *Just* and *Good* to Detain what I have *Robbed* from the right Owners? Or is their *Right* Extinguished by my getting into *Possession*? If so, *Right* is but a *Chance*, and the same thing may be *Right* and *Wrong* *Twenty Times a Day*! And what need then your *Courts of Justice*? *Cross* and *Pile* is the most equal *Decision*! Or let the *Strongest* take all! Let every one get what he *can*, and keep what

what he has got! This you call the *Law of Nature*, and think us Miserable because we have no other *Law*. And yet is it not the very same with your *Principle of Possession*? But our *Nature* teaches us better things. And much *Learning* has made you *Mad*! Ask any Man of *Nature* in the World, if he saw one Man *Robbing* another, whether he ought not to assist the *Injured*? Yes, say you, before the *Robbery* is *Perfected*; but have a Care—— If the *Robber* has got the *Possession*, he has gained the *Right* too; and you are obliged then in *Conscience* to stand by Him as the *Rightful Owner*; and to Fight against the former *Possessor*, if he should seek to recover what he (for Want of your *Learning*) thinks still to be his *Right*; and if he should raise the *Hue and Cry* against the *Robber*, you ought to stop the *Pursuit*, and Cry out *Possession! Possession!* Gentlemen you know not the *Prerogative of Possession!* It is true he is a *Robber*, but *Success* has given him the *Right!* And this is *Necessary* for the *Peace* of the *World*, that there should be an *End of Disputes!* Would this be an *Encouragement*, or a *Terror* to *Robbery*? And so of *Usurping a Crown*. Your *Remedy* is worse than the *Disease*. You take away the *Punishment* that ought to follow *Usurpation*, to *Deter* Men the more from it! And this, you think, will make fewer *Usurpations!* That is, the more
Easy

Easy a thing is, it is the *Harder* to come at it! This is your *Logick*! But I like better to keep my own *Natural* Notions, that *Right* is *Right*, and ought to be *Supported*; and *Wrong* is always *Wrong*, and ought to be *Pursued* as the publick *Enemy*; and the *longer* it *Continues*, it is the *Worse*, and still more and more *Wrong*; and no *Prescription* can take away *Right*, or alter the *Nature* of *Right* and *Wrong*. And this *Rule*, Sir, I humbly *Conceive*, would keep *Peace* and *Quietness*, and *Justice* too, more in the *World*, than your making *Success* the *Standart* of *Good* and *Evil*, which is indeed making them *Both* the *same* thing!

(24.) *Hoad*. You are in the *Right*, Mr. *Hottentote*, and an *Honest Whig* in this, for we detest Mr. *Higden's* Principle of *Possession* as much as you do. We hate any *Usurpation*, how *Prosperous* soever, upon the *Rights* and *Liberties* of *Mankind*. And the more *Prosperous*, it is the greater *Enslaving* of the *World*. And to tell us that we ought not to turn *Wickedness* and *Injustice* out of *Possession*, is to *Subscribe* to all the *Conquest* of *Satan*, and his *Emissaries* upon *Earth*: Nay, to adopt them into the *Ministers* of *God*, and His *Vice-Gerents*; and that for *Usurping* upon those whom Mr. *Higden* owns to be the true *Vice-Gerents* of *God*, and Guards with *Irresistibility*, as the *Ordinance* of *God*, upon Pain of *Damnation*!

nation! Yet Rewards the *Resistance* of them (if it *Succeeds*) with the same *Divine Right*, now transferred to *them*, who were the Hour before the *Ministers* of the *Devil*, in *Resisting* their lawful *Sovereign*, and deserved the *Gallows*, if they had missed the *Throne*! And who, he thinks, will still be *Damned* for this, without *Repentance*, but yet that they are not bound to make *Restitution*! for that their *Damnable Sin* has quite *Extinguished* the former *Divine Right* of their *Injur'd Prince* (whom they have *Unjustly* and *Wickedly* **DISPOSSESSED**, against all the *Laws* of *God* and *Man*) which now accrues to *Them*, by their *Rebellion* having taken its full *Effect*! And which he owns had not been so great a *Sin*, if it had not *Succeeded* so far as to gain *Possession*. Yet this *Possession*, and this only, now conveys the *Divine Right*! That is, the *Greater* the *Sin*, the *Nearer* it brings us to *Divine Right*! This comes upon you, Mr. Higden, for your vain Attempt, to *Reconcile* *Divine Right* and *Usurpation* together. But we who place the *Power* in the *People*, think it no *Usurpation* to *Dispossess* any *Prince* we do not like, and to put whom we please in his Room. But if we thought any *Government* to be *Usurpation*, we would not *Obey* it, but think our selves, obliged to overthrow it whenever we could. Thus we make our selves *Easy*, and can never go *Wrong*, while we
Esteem

Esteem the *Voice* of the *People* to be the *Voice* of *God*.

(25.) *Hig.* Do you think it so now, or since *Dr. Sacheverell's Tryal*?

Hoad. No. We except your *High-Church* *MOBBS*, they are the *Devil*! But by the *People* we mean only *our selves*, the *True Peaceable* and *Moderate Men*! And when we raise *Mobbs*, it is always for a *Good End*, to promote *Peace* and *Quietness*, *Religion* and *Good Government*!

Hig. Yours is a *Senseless*, *Noisy*, *Party-Driving*, *Mischief-making*, *Good for Nothing* *MOBB*! ——— Ours is a *Mobb* of *Sense* and *Principles*, a *Self-denying* *MOBB*! They *Rise up* against their *Flatterers*, you sneaking *Whigs*, who wou'd set them above *Kings* and *Parliaments*, and make them believe that they are the *Original* and *last Resort* of *Government*! But we have taught them better, That no such thing belongs to *Them*, that they were *Born* to be *Subject*, and requir'd by *God* to pay *Obedience* to their lawful *Rulers*, as His own *Ordinance*, upon *Pain* of *Damnation*; therefore that you wou'd cheat them out of their *Souls*, as well as their *Lives* and all *Peace* and *Settlement* in the *World*, by prompting them to *Rebel* and *Murder* one another to the *End* of the *Chapter*, for their *Liberty*, to do the same again, and again, as often as any *Designing Knave* has a
Mind

Mind to set them on Work for his own *Advancement*, and Wade to the *Crown* thro' an *Ocean* of their *Blood*! And this is the only End for which you *Coax* and *Sooth* them and tell them of their *Power*! Therefore they *Despise* YOU, and join with US, who *Deal Honestly* by them, and tell them the *Truth*, which they always find to be so, and for their own *Advantage*, both in *Soul* and *Body*, both *Here* and *Hereafter*. We have dissolv'd the *Charm*, and the *People* have recover'd their *Senses*, to prefer *Government* to *Anarchy*, *Peace* to *War*, and a *Conscientious Submission* to a lawless *Liberty*.

Hoad. Ours is a good *Protestant Mobb*. Yours are filled with *Papists* and *Jacobites*.

Hig. But when you had taken them, they prov'd true blue *Presbyterians*, and then you let them go again. Your *Mobbs* are all *Papists*, for they are all for the *Deposing Doctrine*, which is perfect *Popery*. See *Two Sticks made One*, or *The Devil upon Dun*; there you will find the good *Agreement* of the *Papist* and *Presbyterians* in this Point set before you in one Sheet, to be Hung up as a *Picture* of them both. No doubt you have in your Study the Noble Book, *De Justa Abdicatione Henrici Tertii* Printed, *Lugduni*, 1591. *Ex Præcepto Superiorum*. And there we find every one of the *Arguments* you have given us, for the
Power

Power of the People, and for Resistance, that you seem just to have *Transcrib'd* it. Or else *Good Wits Jump'd*. It is all one whether we oppose *Papist* or *Presbyterian* upon this Head, for they are *Both* the Same, one the *Master*, the other an apt *Scholar*.

Hott. I know no Reason why we may not take good things from *Papists*. But all their *Jesuitry* is out-done in your *High-flying Contradictory Addresses*. Your *Dis-simulation* is Notorious!

Hig. That is in your Opinion. But how do you *Prove* it? You must enter into our *Hearts* to know whether we *Dissemble* or not: Or else shew it by our *Actions* as we have discovered all your *Horrid Dis-simulations* to *K. Char. I.* for his Preservation, and of the *Church*, which ended in the *Destruction* of both.

But I know where the Shoe pinches, you are afraid that we have got your *Arms* of *Dis-simulation* and *Treachery* from you, and intend to *Fight* you with your *Weapons*! And if this were the Case, it ill becomes the *Whigs* to Object it. It only brings their own *Sins* to Remembrance. *Clo-dius Accusat Machos*. And if you should Fall by others Practising your own *Arts*, it would be Just upon you.

— *Nec Lex est Justior ulla,
Quam Necis Artifices arte perire Sua.*

Hood.

Hoad. You have Dressed a *Whig* up fairly — And now, Mr. *Higden*, you must come in for a Snack, for I will Prove you to be as Errant a *Whig* as my self. In your *Defence of the View of the English Constitution, &c.*

Hig. Hold Sir, I am not answerable for that. That was wrote by Dr. *Higden*, and though I be the same Man, yet we are not of the same Mind.

Hoad. Then let Dr. *Higden* appear, and see how you two agree.

Enter Dr. *Higden*.

(26.) Dr. *Hig.* I hope it may be Lawful in me to correct my own Mistakes.

Hoad. Yes. When you own them to be such. Otherwise it is but *Dodging* and *Contradicting* your self. The *Natural Born Subject*, in his *Letter* to you, says —

Dr. *Hig.* Name not that Book, Sir, for I have answer'd it already.

Hoad. Yes! As *Rats* answer *Books*, by *Nibbling* at some *Corner* of the *Leaves*. You Snap at some *Circumstantial*s of no Consequence to the Question in hand, and there you Triumph; but you wisely avoid all his *Arguments*, and leave them still a full Answer to your *Defence*. You know I am no Friend to that *Author*, and I can answer him in my own way. But I must say

say it, That he is Unanswerable by you, upon the *Principles* you have laid down.

Dr. Hig. What are those *Principles*? Come, since I must, I will Argue them with you.

Hoad. In his *Seet.* III. N. 12. p. 73, 74. He charges you with placing the whole *Legislative* Authority in the *King*, and in Him *alone*. And quotes your *View* full and Express upon the Point.

Dr. Hig. I have said nothing to that in my *Defence*, I saw that Mr. *Higden* had run himself a Ground there. And I have endeavoured to bring him off as well as I could, for I saw what would come upon him for that High Tory *Principle*. Therefore I obviated it in the very first *Sentence* of the *Preface* to my *Defence*, where I make the *Consent of the States* Necessary to the just *Possession* of the *Throne*. And I carry the same on through my Book, as p. 67. 103. &c. where I put the *Legislative* in the *King* and *two Houses of Parliament*.

Mr. Hig. When I wrote the *View* I was but just come out of the *High-flying* way, and could not depart from it all at once. I thought to have Reconciled it with my New *Principles*, that my *Change* might seem the less; but now I find it will not do, therefore I have gone from it, and wisely altered the *State* of the *Question*, and so given the *Slip* to all my Opponents!

I thank the *Doctor* for this. It is never too late to Mend.

(27.) *Dr. Hig.* This was Necessary for me, to get 'over the odious Instance of *Oliver Cromwell*, with which I was Plagued. For I have found out at last, as I say, p. 107. "That *Oliver* had not the Consent
 " of the three Estates of the Realm, for
 " his Protectorship; Two of the three E-
 " states, the Lords Spiritual and Tempo-
 " ral, having been long before laid aside,
 " and it was no better than a Mock-repre-
 " sentation of the third Estate, the Base
 " and Ignominious Tools of his Ambition,
 " with the help of his Fanatick Army,
 " that made him Protector.

Hoad. But had he not the Supreme Power, by whatever means came he by it? And you say p. 60. of this same *Defence*, "That
 " the *Legislative* Authority is Essential to
 " the *Supreme* Authority and inseparable
 " from it, since no Power that is less than
 " the *Sovereign* Power can give Laws to
 " a Community." So that here you make
Supreme, *Sovereign*, and *Legislative* the same thing. And that *Oliver* did give *Laws* to the *Community* you cannot deny. Therefore by your own *Principles* he was *Sovereign*, *Supreme*, and had the *Legislative* Authority. If you say, he had it not *de jure*, though in *Fact* he did exercise it, there is an End of your whole *Hypothesis*.

sis. And so it will be, if you give Men leave to look back upon all the Steps by which any *Usurper* mounts the *Throne*, and if they find any of them to be *Illegal*, not to allow such a *de Facto* Government. For it is impossible any should *Usurp* the *Government* without breaking through the *Laws*. And this will make an end of all your *de Facto* Kings at a Blow. For you will find no *King* to be *de Facto*, by this Rule, but the *de Jure* King, who only comes to the *Crown* according to *Law*. So here you have cut the Grass under your own Feet, and overthrown your whole Book all at once.

We *Whigs* say, I have often *Preached* and *Printed* it, That *Parliaments* as well as *Kings* are Accountable to the *People*, as Deriving their *Authority* from the *People*. And therefore that as *Parliaments*, being the *Representatives* of the *People*, may *Depose* *Kings*, so the *People* may *Depose* both *Kings* and *Parliaments*. And though *King* and the *two Houses* of *Parliament* are the *Constitution*, the *People* have thought fit to set up, yet that the *People* are not so tyed up to this, but that in Cases of Extremity they may take other Methods. Thus at the *Revolution* the *People* made a *Convention*, and that *Convention* after turned it self into a *Parliament*, to restore the *Primitive Constitution*. And you would overthrow all this, and make all their *Acts*

Nullities, because all the *Forms* of *Law* were not, could not be observed, if we would have a *Revolution*.

Dr. Hig. Do not put that upon me, Sir, I am heartily for the *Revolution*, I have *Complied* with it, *Sworn* to it, and Wrote in Defence of it better than any Man of the Age, and my *Work* is admired and hugged by every Body.

Hoad. Let them Admire it who will. But I charge it upon you, that it is levelled directly at the *Revolution*. He is Blind that does not see it.

Dr. Hig. I was in Distress indeed to get rid of *Oliver* and his *Laws*. And I could find no other way, but that *Maxim* which I set down, p. 106. *That a Law cannot be made without a King, or Queen*.

Hoad. And what *King* or *Queen* did call our *Convention*? And did they make no *Laws*? Did they not Dispose of the *Crown*? And we say Rightfully, by Power derived from the *People*.

Dr. Hig. But *Oliver* had not the three Estates with him. The two First were laid aside long before. p. 107.

Hoad. Then it was not he who laid them aside. But the *First* of the *Three* was laid aside in *Scotland*, before their *Convention* or *Meeting of Estates* was turned into a *Parliament*. Are all their *Laws* then *Nullities* that have been made since?

Dr.

Dr. Hig. But several *Attainted* Persons sat in *Oliver's Parliament*. And I have shewed, p. 72. that none such ought to sit till their *Attainders* were Reversed by *Act of Parliament*.

Hoad. The same Objection was made at the *Revolution*. So that your *Tail* is still in the *Well*. But we get over all this easily. For these are but *Niceties*, and the *Original Power* of the *People* solves all. But you *High-Flyers* who talk of *Divine Right* in the *King*, and make the *Parliament* but a *Creature* of His, and to Derive all their *Authority* from the *Crown*, you, I say, can never get over it.

It was this Notion made *Charles II.* take the Title of *King* before he was in Possession.

Dr. Hig. I have answered that p. 118. where I say, "As for the Case of King *Charles II.* though he was not in Possession, yet there was no King in Possession against him; and therefore he did, what *Edward IV.* durst not, assume the Regal Title before he was in Possession.

Hoad. Therefore if *Oliver* had taken the Title of *King*, as he was once about it, then *Charles II.* durst not have Assumed it! Indeed, *Doctor*, you are very Diverging.

Dr. Hig. But my strongest *Argument* is still behind, which you will find p. 104.

“ That *Oliver's* Acts Sunk of themselves
“ without a *Repeal*.

Hoad. So did the Acts of *Henry VI.* after he had dispossessed *Edward IV.* and are not put in our *Statute Book*. There are none there after his 39th Year.

Dr. Hig. But why did any of the Acts of Kings *de Facto* stand? For this is my whole Foundation why these Kings *de Facto* were likewise *de Jure*, because their Acts were suffered to stand in the Reigns of Kings *de Jure*,

(28.) *Hoad*. But did the Acts of Parliament in the Reigns of Kings *de Jure* own these Kings *de Facto* to be likewise *de Jure*?

Dr. Hig. No. As I have fully shewed, p. 75. They were always called Kings in *Deed* and not of *Right*. But I have Proved by the Consequence of their Acts being suffered to stand, that they were of *Right*, and so owned by the Kings *de Jure*.

Hoad. What? Against their own Express Words, that they were not of *Right*!

Dr. Hig. Yes, by the Consequence of letting their *Laws* stand.

Hoad. I love a Man that would Disprove *Fact* by *Consequences*! But did Kings *de Jure* confirm any of the Acts of Kings *de Facto*, as not having sufficient *Authority*?

Dr.

Dr. Hig. Yes, The Title of the *Act* 1 *Edw. IV.* is, *Which Acts done by the three Henries should continue good, and which not.* And the *Act* calls them *Pretended Kings, and not of Right.* And *Confirms* such *Acts* as was thought fitting, to be of like *Force and Effect* as if made by any King *Lawfully Reigning, and obtaining the Crown by Just Title.* Thus the *Natural Born Subject* quotes this *Act* against me, p. 40. But I have got a *Distinction* for him, and say, p. 70. That these *Acts Confirmed* were not *Publick Acts*, only a few *Private Acts* which were *Confirmed for private Reasons.*

Hoad. So *Private*, Doctor, that I believe you do not know them. And it is hard to *Guess* any other Reason, but that they wanted sufficient Authority before. But can you give an Instance of any *Act of Parliament* under a *de Jure* King that was *Confirmed* for want of sufficient Authority? For here the Cause seems to Pinch.

(29.) Dr. Hig. The N. B. Pinches me with this. And I have got an *Instance* for him, p. 70. viz. "The *Acts* made 12 *Car. II.* "because that *Parliament* was not called "by the King's Writs, were all *Enumerated* and *Confirmed* in an *Act* passed 13 " *Car. II.* chap. 7.

Hoad. This was to remedy an *Essential Defect* in that *Parliament.* Not for any *Doubt* in the *Right* of the *King*, which

was the Point betwixt you and N. B. and the Reason given for *Confirming* the *Acts of Usurpers*. Your Dispute was about the *Right* of the *Prince*, not the *Constitution* of a *Parliament*. You were Merry, Doctor, when you wrote this. It was too severe a Satyr upon an Old Bird, to think to Catch him with such Chaff. And you needed not have so Insulted him upon it as to say, “The
 “ *Natural Born Subject*, with great Assu-
 “ rance, asks me, *Can you give one single*
 “ *Instance out of all our Records of any*
 “ *Act of Parliament made by a Rightful*
 “ *King that ever was Confirmed for Want*
 “ *of sufficient Authority?* Here’s one Instance
 “ for him, and a Famous one; and he may
 “ find another 13 *Car. ii. chap. 13.*” Thus
 you, Sir. But you should have quoted the
 Place, it is, p. 49. of N. B. where it is
 plain that by *Want of sufficient Authority*,
 he meant, of *sufficient Authority* in the *Prince*,
 and he explains what he means by that,
viz. That he be a *King de Jure*, and not
 only *de Facto*. For the very next Words
 to what you Quote are these, “This shews
 “ you the *Difference*. And the whole Dis-
 “ pute shews, that there was a *Difference*
 “ made betwixt *de Jure* and *de Facto*.
 “ Were any *Judicial* Proceedings in the
 “ Reigns of *Kings de Jure* ever *Confirmed*,
 “ or *Titles of Honour* granted by them, or
 “ any other *Regal Act*? Here the Cause
 “ Pinches. And till you can shew this,
 “ you

“ you cannot say, as you do p. 8. and p.
 “ 23. That Kings *de Jure* own the Au-
 “ thority of Kings *de Facto* in as ample a
 “ manner as of Kings *de Jure*, and of e-
 “ qual Authority with themselves, or any of
 “ their Progenitors of undoubted Right. How
 “ can this be said? When we see that Kings
 “ *de Jure* have Annulled some, and Con-
 “ firmed other Acts of Kings *de Facto*, but
 “ never either of these was done to any
 “ Act of a King *de Jure*.” These are his
 Words. And if you had Quoted them, or
 Named the Page where the Reader might
 have easily found it, I believe there is not
 another Man of Sense in Britain, besides
 your self, could have mistaken his Meaning!
 So that N. B. still calls for an Instance of
 any Act of a King *de Jure*, that was Con-
 firmed afterwards for want of sufficient Au-
 thority in the Prince, or for his not being
 a King *de Jure*. And your Famous In-
 stance of King Charles II. is *Instantia Famo-*
sa indeed in the present Case, that is, no-
 thing at all to the Purpose. And for the
 other Instance you Name, but do not tell,
 of 13 Car. II. chap. 13. look it who will
 (for I have not the Statute Book by me)
 N. B. Ventures, with the great Assurance
 you represent him, to put the Issue upon
 it, That there is no Confirmation there of
 any Act of that King, for want of a Right
 Title in the King. If it be for any other
 Defect, it concerns not our present Dispute.
 And

And if it had been to your Purpose, I believe you would not have grudged to tell us what it was.

Dr. Hig. I was but Playing with him, to see if he would take Notice of such a Slip ——— But I still Insist, that Kings *de Jure* Suffering the *Laws* of Kings *de Facto* to stand, does imply that they owned the *Legislative* Authority of such Kings *de Facto*, and Consequently that they were *de Jure*.

(30.) Hoad. To prevent which *Consequence* or *Implication*, they tell expressly that they were not *de Jure*, and that they did not own them as such. But you will not believe them, nor their *Acts of Parliament* so Declaring! And they might have had Reasons for letting the *Laws* of *de Facto* Kings stand, which we do not know. But Two are obvious, either were a *Compromise* made with him in Possession, or where it might redound to the Dishonour of the King *de Jure* or his *Family*. Now let us see what Occasions there have been since the *Conquest* for Kings *de Jure* to *Vacate* or *Conform* the *Acts* of *Usurpers*. I can find but Two, that of King Stephen and Henry II. and that of York and Lancaster. And in both these there was a *Compromise* made, which is at least an *Implicit Confirmation* of the *Laws* made during the *Usurpation*. Though we find that some particular

particular *Laws* were expressly *Confirmed*. But the Right of these Kings *de Facto* is as expressly denied in the Acts of the Kings *de Jure*. There has been but one Occasion more of this Nature, from that Time to this, which was the *Restoration* of King *Charles II.* as to the *Laws* made during the *Usurpation* (as you are forced to call it) First of the *Common-wealth* of *England*, which began in 1649, Then of *Oliver* the *Protector* set up in 1653, Succeeded by his Son *Richard* in 1658. And so on to the Year 1660. But there was no *Compromise* made with these *Usurpers*, therefore their Publick *Acts* for the Common Good of the *Subject* were *Confirmed*, and the rest fell.

(31.) But it is to be Observed that none of these *Confirmations* were Understood to Extend to any thing that tended to the *Disherison* of the *Crown*. Therefore *Hen. II.* Recalled the *Crown Lands* which were Granted away by King *Stephen*, with this Reason, *That the Charters of an Invader ought not to prejudice a Lawful Prince*, as *N. B.* p. 37. has Quoted from *Dr. Brady*.

Dr. Hig. I have answered that in my *Defence*, p. 55. " That in the ancient Oath,
" taken by the Kings of *England* at their
" Coronation, the King Swears, *That he*
" *shall keep all the Lands, Honours, and*
" *Dignities, righteous and free of the Crown*
" *of England, in all manner Holy without*
" any

“ any manner of Minishments, and the Rights
 “ of the Crown, Hurt, Decay, or Loss, to
 “ his Power shall call again into the ancient
 “ Estate. &c.” And this, say I, p. 56.
 “ may serve for an Answer to what is ur-
 “ ged by the Natural Born Subject, concer-
 “ ning Henry II. Revocation of King Stephen’s
 “ Grants of Crown Lands.”

Hoad. It will serve for more than that. Even for the Revocation of the Crown Lands granted ever since, and all those Rights of the Crown, which Kings have parted with, to be Called back again into the ancient Estate. Here will be a large Field for Revocations. For all the Lands of England did once belong to the Crown, and are still held of it. And the Power of Parliaments will, by this Rule, be Called back again into the ancient Estate. And what then will become of all our Liberties and Properties? Can a King’s Oath dissolve Acts of Parliament? This is beyond any of the High-Flyers.

Now, *Doctor*, what do you think of your self? Will you Stand by all this, rather than part with your Hypothesis? Rather than let N. B. (whom you so much despise) carry away the Victory from you? It is better to recall the Grants only of Usurpers, as Henry II. did, than, with you, to recal the Grants of all our Kings; besides making them Perjured into the Bargain.

There

There is another Instance to shew it was the Notion of those Times, That upon a *Compromise* the *Laws* of the *Usurpers* should stand, except those that were made to the *Prejudice* or *Disberison* of the *Crown* and *Lineal Succession*. For this *N. B.* sends you to *Dr. Brady's History of the Succession of the Crown, &c.* which you will find, p. 385. of his *Introduction to the Old English History*. When *Richard Duke of York* put in his Claim to the *Crown* by *Proximity of Blood*, against *Henry VI.* the then *Possessor*, it was objected to the *Duke*, that there were *Acts of Parliament* which *Entayled* the *Crown* to the *Heirs* of *Hen. IV.* And that the said *Acts* were of *Authority to Defeat any manner of Title made to any Person*. To which the *Duke's Answer* was in these Words,

“ That in trauth there been no such
 “ *Acts* and *Tayles* made by eny Parliament
 “ heretofore, as is surmised, but oonly in
 “ the Seventh Yere of King *Henry* the
 “ *Fourth*, a certain Act and Ordinance was
 “ made in a Parliament by him called,
 “ wherein he made the *Reaums* of *Englond*
 “ and *France*, amongst other, to be unto
 “ him, and to the *Heirs* of his Body coming,
 “ and to his four Sons, and to the
 “ *Heires* of their Body coming, in Manner and Fourme as it appereth in the
 “ same Act. And if he might have ob-
 “ reyned

" reyned and rejoised the *Corones*, &c. by
 " Title of *Inheritance*, *Discent*, or *Succefsion*, he neither needed or would have
 " desired or Maid thaim to be Granted to
 " him fuch wyfe as be by the faid Act,
 " which tacketh noo place, neither is of
 " eny force or effect ayenft him that is
 " right *Inheriter* of the faid *Corones*, as it
 " accordeth with Gods Lawe, and all Na-
 " tural Lawes; howe it be that all other
 " Acts and Ordinances made in the feyd
 " Parliament Sithen, been good and fuffi-
 " cient ayenft all other Persons.

And purfuant to this the *Compromise* was
 made, and Confirmed by *Act of Parliament*,
 which you may fee *Rot. Parl.* 39. *Hen. VI.*
 wherein are thefe Words relating to the
Acts of Parliament and *Judicial Proceedings*
 during the Reigns of the three *Henries*,
 except what related to the *Succession* of the
Crown.

" And furthermore the King Ordaineth
 " granteth and Stablifheth by the feid ad-
 " vis and Authoritee that all Statutes Or-
 " denances and Acts of Parlement ———
 " by the which ——— The Heires of the
 " Bodie of K. Harry the fifte comeing were,
 " or be Enheritable to the feid *Corones* and
 " *Reames* ——— be Adnulled Repelled Re-
 " voked Dampned Cancelled Void and of
 " noo force or effecte &c. And over this
 " the King by the feid Advis Affent and
 " Autoritee

“ Autoritee Wolle Ordeyneth Establissheth
“ that all other Acts and Statutes made
“ afore this tyme by Autoritee of eny Par-
“ lement not Repelled or Adnulled by like
“ Auctoritee or otherwise voide be in such
“ force effect and vertue as they were a-
“ fore the makeing of this Ordenance. And
“ that noo Letters Patents Royall of Re-
“ cord nor acts Judicial made or doon afore
“ this tyme not Repelled Reversed ne o-
“ therwise void by the Lawe be prejudiced
“ or hurt by this present Acte. Soe alwey
“ if there cannot hereafter be alledged and
“ proved a more better and sufficient Tytle
“ to the defeteing of the same Acte.

This *Compromise* was afterwards broken by Henry VI. and Richard Duke of York was Slain in *Battle*. And therefore his Son Edward IV. might not think himself obliged to stand to this *Compromise* further than he thought fit, and this may be a Reason of that *Act* 1 Edward IV. to Determine which of the *Laws* of the Three *Henries* should stand and which not. However it cannot be said that the *Laws* of the Three *Henries* did Stand merely upon their own *Authority*, without any *Allowance* or even *Presumptive Consent* of the Lawful Heirs, which you so much *Ridicule*, and make perfectly Needless. And say, That the *Laws* of *Usurpers* made with Consent of the *States*, are *Valid* of themselves, and have
Authority

Authority to alter the Succession of the Crown, and quite Extinguish the Right of the Dispossessed Prince and his Heirs.

But the *Parliament* of *Henry VI.* was of another Mind, who thought a *Compromise* Necessary to Confirm their *Laws*; and notwithstanding the long *Possession* of *Henry VI.* and his full *Recognition* by *Parliament*, and the *Crown* being *Entailed* upon him by *Act of Parliament*, yet declared that the *Right* of the true *Heir* by *Proximity* of *Blood*, could not be *Defeated*. I know you are *Angry* at this *Parliament*, for doing this, and so am I too. There were *High-Flyers* in those *Days*, and they are alike offensive to *You* and *Me*.

The *Lords* further *Objected* in these *Words*,
 “ It is thought that the *Lord* of this *Land*,
 “ must needs call to their *Remembrance* the
 “ great *Oaths* the which they have made to
 “ the *King*, the which may be leyed to the
 “ said *Duc of York*; and that the *Lords*
 “ may not break their *Oaths*.

The *Duke's* Answer was this, “ That
 “ no *Oath* being the *Lawe* of *Man* ought
 “ to be performed, when the same leadeth
 “ to *Suppression* of *Truth* and *Right*, which
 “ is against the *Lawe* of *God*.

This was the *Doctrine* of those *Times*. And it prevailed so far, that the *Compromise* before mentioned was made, in which the *Acts* of *Henry VI.* to that *Time* stood *Good*. But when *Henry VI.* had broke this *Com-*
promise;

promise, and Expelled *Edward IV.* tho' he lived *Ten* or *Twelve* Years afterwards, none of the *Acts of Parliament* made by him from that Time were thought *Valid*, but fell of themselves, and have no Place in our *Statute-Book*, as the *Acts* of the *Commonwealth*, or of *Oliver* have not. But if a *Compromise* had been made betwixt King *Char. II.* and these *Usurpers*, and the *King* Restored upon that Foot, perhaps their *Acts* might have been suffered to stand, except those that were for the *Disherison* of the *Crown*. Yet would it not have followed, that King *Charles* had Recognized their *Right* as *Legislators*; especially if he had openly Declared that they were not *de Jure*, tho' they had *de Facto* exercised the *Supreme* and *Legislative* Authority, as *Edw. IV.* did Declare. But you would prove that he did own them to be *de Jure*, tho he declared he did not! Your *Undertaking* is *Magnanimous*!

But, Sir, *N. B.* Objected to you the *Commonwealth* of *England*, as well as *Oliver* the *Protector*; and you take no Notice but only of the latter, and put him off because he did not take the Title of *King*. Will that do for the *Commonwealth* that was before him? Or is not a *Commonwealth* a *Government*? And has it not a *Legislative* Authority? Are they to be laid aside too, because they did not take the Title of *King*!

Or were they not a *Commonwealth*, because not Recognized by the Lords *Spiritual* and *Temporal*? Is not *Holland* now a *Commonwealth*

wealth for the same Reason? And this is all the Reason you give against the *Protectorship* of *Oliver*. King *Char. I.* passed an *Act of Parliament* for Excluding the *Bishops* out of the the *House of Lords* in *England*, and he Abolished *Episcopacy* it self in *Scotland*. Was the *Government* therefore Dissolved? What do you make of these *Estates*? They are part of our *Constitution* now it is true. But the *Constitution* may alter the *Constitution*. We own no *Fundamental Constitution* but the Power of the *People*. That alone is *Unalterable* with us. When you was a *High-Flyer* you put it in the *Crown*. But now you are come over to us, and own no *Right* to the *Crown* but what is *Parliamentary*; you have made your *de Facto Hypothesis* Stoop to that. For you own *Oliver* was *de Facto*, but object only that it was not Regularly *Parliamentary*, in the common *Course*, as our late happy *Revolution* was not; nor could be. You will dissolve all *Governments* in the *World* at this Rate, for there never was any *Revolution* in the *World* exactly by *Rules* before set down. But when things are come to a *Settlement*, then to Submit; I thought had been the *Notion* of your *de Facto*ship. But you have jumbled all again, by requiring us to look back, and Examine all the *Steps* by which it was brought about. And this is come upon you, from your thinking your self obliged at present to disown our *Oliver*, because it is not *Popular*. Whom yet you must own to have been *Rightful* and

Lawful

Lawful in his Turn, or else quite give up your *Hypothesis*. And if you will still stick to it, Remember I tell you, you will, you must join with every *Oliver* that shall arise, and have the same *Success* as he had. For by quitting your *Jure Divino*, and *Kings* having their Power from *God*, you have left your self no Ground to stand upon but the Power of the *People*, whose *Voice* you must henceforth own to be the *Voice* of *God*! You have Comenced a true blue Honest Dr. *Whig*. I Congratulate your *Conversion*. Give me your Hand. Henceforth you and I are One. And *Higden* and *Hoadly* shall be Convertible Terms.

(32.) Dr. *Hig*. Not so fast, Sir, — You are for *Resistance*, and I utterly abhor it. How then can we be One?

Hoad. Very good Friends for all that — I countenance *Resistance*, and you *Justify* it if it *Succeeds*. And what great Matter of Difference is here? You the *Receiver*, and I the *Thief*. We both agree to share the *Plunder*. Are we not then of a *Piece*, and of the same *Party*?

Dr. *Hig*. What you *Get*, I will *Keep*. I have been long enough on the loosing Side. But I have *Sworn* to do so no more. For I have henceforward subscribed my self the Humble Servant of *Events*. And they shall never be against me, because I will be always *for* them.

And p. 111. I have laid down a *Maxim* will

secure me in all this, viz. *Proteſtio trahit Subjectionem, & Subjectionem trahit Proteſtionem*, which, I ſay, “ *being underſtood as it ought* “ *to be*, of the *Proteſtion* of a *King*, is of it “ ſelf ſufficient to determine the *Senſe* of the “ 25 *Edw. III.* and to put an *End* to the “ whole *Controverſy*.

Hoad. That is, we owe *Subjection* to a *King* no longer than till he either *will not*, or *cannot Proteſt* us. And the *Statute of Treasons* is to be Underſtood only of a *King* who give us *Proteſtion*. But how then can you *Condemn the Regicides*?

Dr. Hig. O, I clear that Point abſolutely, p. 118. where I Quote the Lord Chief Baron *Bridgeman's* Words to Cook the *Regicide*, viz. *King Charles was owned by theſe Men and you as King, you Charged him as King, and you Sentenced him as King, you Proceeded againſt him as King, and as yet King, &c.*

Hoad. That is who had yet the Name of *King*, as we ſay, once a *Captain*, and ever a *Captain*, though his *Commiſſion* be taken from him. But by your *Maxim*, as you underſtand it, there could be no *Treason* then Committed againſt him, within the Purview of the 25 *Edw. III.* becauſe he was not then able to give *Proteſtion* to any One, nor to Himſelf. And it is *Proteſtion* only that draws our *Obedience*, as you ſay.

But the *Remarker* Quotes *Moor's* Reports againſt you, where it is ſaid, “ That Allegiance follows the *Natural Perſon* of the “ *King*,

" King, for if the King is by force driven out
 " of his Kingdom, and another Usurps; not-
 " withstanding this the Allegiance of the Sub-
 " ject does not cease, tho' the Law does.

Dr. Hig. I pay the Remarker off for this,
 p. 109. And Ridicule his Natural Person of
 the King, as if, say I, a King *de Facto* had
 not a Natural Person.

Hoad. This was really very Ingenious! I
 believe the Remarker never dreamt of such a
 Distinction as this!

Dr. Hig. That was only to shew my Wit!
 But I come upon him in good earnest for the
ceasing of the Law, and shew that the Law
 did not *cease* under Kings *de Facto*.

Hoad. No, nor under Oliver, except what
 Related to the King, and the Right of the
 Crown. The same Laws were Pleaded as be-
 fore. And these Usurpers said, That they
 made no Alteration of the Law, only as to
 some Circumstantial things in the Manner of
 the Administration, which the People mended
 for the Better.

Dr. Hig. This Oliver comes Athwart me
 every Turn. You make him Parallel in eve-
 ry thing to my Kings *de Facto*.

Hoad. Had not you better come over to us
 Intirely, and Justify the good Commonwealth
 of England, and Oliver, and the Rump, and
 all as we do, upon the Foot of the Power
 of the People? You Argue for the Principle,
 and yet are afraid to own the Consequences.

Dr. Hig. It is not Time of Day yet. But

the *Time* may come, and there may come a *Time*——

Hoad. Be not so Angry at *Oliver*. For he stands not a bit more in your Way, than the *Parliament* 39 *Hen. VI.* and 1 *Edw. IV.*

Dr. Hig. O, I have got over these cleverly, for I say in my *View*, p. 57. "That this Declaration of the 39 *Henry VI.* as well as the Acts of the 1 *Edward IV.* were Repealed and Annulled by the Act of Parliament, when *Henry VI.* Recovered his Throne."

Hoad. You might have added, That *Edward IV.* was then likewise *Attainted*, and He, and his *Heirs* for ever Excluded by Act of Parliament from Succeeding to the Crown of *England*. But all this makes against you, For he did Succeed notwithstanding, and all these Acts were reckoned Null and Void in themselves, as being made by an *Usurper*, after that *Henry VI.* had Dispossessed *Edward IV.* And therefore are not look'd upon as *Laws*, nor put among our *Statutes*, and the Act of Parliament 1 *Edward IV.* stands still Good notwithstanding this Repeal.

Dr. Hig. I see not why *Henry VI.* was not an *Usurper* as much before the *Compromise* made with *Richard Duke of York* as afterwards. This seems to be an *Humour* in those Times, and serves our *Non-jurors* to Brangle and Perplex the Cause.

Hoad. Give me leave, Sir, to say a Word
in

in behalf of these *Non-jurors*, though I love them almost as little as you do. *Henry VI.* did not *Usurp* the *Crown*, but Succeeded to his *Father* and *Grand-father* who both Possessed it. And *Richard* Duke of *York*, the next *Heir* of that *House*, had Submitted, owned him as his *Sovereign*, Received *Commissions* from him, and Swore *Allegiance* to him. What Reason then had the most Rigid *Royalist* to set up the *Claim* of the Right *Heir*, till he thought fit to do it Himself? But after He did set it up, then he found Friends to Assert his *Right*, and even the *Parliament* Declared that his *Title* could not be *Defeated*, though there was an *Act* of *Parliament* which had *Entayled* the *Crown* upon the *Heirs* of the *House* of *Lancaster*.

Dr. Hig. I know not what *Notions* they had in those Days. But we know better things now.

(33.) *Hoad.* But what then becomes of your *Common Usage*, which you make your whole *Foundation*? You begin with it in your *Preface*, p. 1. "That it has been the *Common Usage* of the *Realm*, after *Revolutions* to Submit to the *Princes* that were Possessed of the *Throne* with the *Consent* of the *States*." This is all you Pretend to Prove. And you might have saved your whole Pains, till you had found some Body who denyed it. It was the *Com-*

mon Usage, and could not be otherwise, else there could never have been any *Revolution*. And the *States* as well as others must *Submit*, before the *Revolution* could be Perfected. But then *Common Usage* will go for one *Revolution* as well as another. And there have been *Anti-Revolutions*. When you come to be a right *Whig*, you will despise this Argument of *Common Usage*, for it has always gone on the side of *Wickedness* and *Vice*, more than of *Virtue* and *Truth*. What *Iniquity* may not be Justified by *Common Usage*?

(34.) Dr. *Hig.* That is all the *Rule* I know for *Government*. For as I say in my *Preface* p. 6. " Could it be Proved that a
" particular Model of Government and Rule
" of Succession to it, had been Instituted
" of God, as a Law to Mankind, I should
" think my self not only obliged to Submit to
" it, but obliged to Submit to no other."

Hoad. Now you go beyond the *Remarker*, the *N. B.* and all the *High-Flying, Tanti-vy, Fure-Divino-Men* that ever I heard of. You will always be running from one *Extreme* to another. You have no *Moderation* in you. For though these say, That *Government* was first *Instituted* of God, and if *Government*, then sure some *Particular Model* or other of it, for there can be no *Government* but in some *Model*; And that this *Model* was a *Law* to *Mankind*, who could

could not alter the *Institution* of God; That this *Model* was *Monarchy*, for that there was no other *Model* in the World for many *Thousand* Years after the *Creation*; And that the *Succession* of this *Model* was *Established* in the *Primogeniture*. Yet after all this they say, That when this *Model* is broken, either by the *Usurpation* of one *King* upon another, or by quite altering the *Model* into that of a *Commonwealth* of whatever fort; yet that from the *Necessity* of *Government*; and the *Obligation* God has laid upon Us of Submitting to it, We ought to Submit to such a *Government*, where there is ~~no~~ *Competition* as to *Right*, for that the *Possessor* has the *Right* against all who *Claim* not by a better *Right*. Therefore your Saying, That if God appointed a *Model* at first, you would think your self obliged to Submit to no other, is *Out-Flying* all the *High-Flyers* in the World!

But if this be your Mind, good Sir, help me against the *Rebearfal* who has Persecuted me upon this Point, and pretends to shew the *Institution* of *Government* in *Adam*, and the *Deduction* of it all along from that Time. In answer to whom I have been forced to write a huge long Book against the *Patriarchal Scheme*, and p. 148. to suppose that *Adam* might have been an *Usurper*, that is, upon the original *Rights* and *Liberties* of the *People*. And you are obliged to help me in this Case, otherwise your
Scheme

Scheme, as well as mine, will come to the Ground.

Dr. Hig. You should not have minded him, as I served N. B. He brought several Instances out of *Scripture* to Puzzle me, as of *David* and *Absalom*, *Joash* and *Atkiah*, which would have quite Ruined my *de Facto Scheme*. But I was even with him, for I put in the *Contents* of my *Chap. vii.* That my *Scheme* was *not contrary to the Holy Scriptures*, which will do well enough with the Generality of Readers, who satisfy themselves with the *Contents*, and suppose all that is there is Proved; especially from a Man of my Exactness. But I doubt not N. B. has been Peeping into that *Chapter*. And there I have catched him, for there is not one single Word as to these his *Objections*. I have sent him on an *April Errand*!

(35.) And to stop his Mouth, I cry W——r first. I tell him in my *Preface*, p. 10, 11. That I deal little with him, because he *Wanders so long from the Question*, and sometimes looses sight of it for many Pages together. By this I mean his Discourse about the *Constitution*, which employs the first *Section* of his *Book*, shewing what the *Constitution* is, how it was formerly, and how it has varied from time to time in its *Current*, *Custom*, and *Usage*, to what it is at this Day, and which is the

the *Original*, the *Fountain*, and *unalterable*
CONSTITUTION.

Hoad. Was this *Wandering* from the *Question*? You called your Book a *View of the English Constitution*, and your whole Argument runs upon the *Constitution*, yet you no where tell us what it is, but suppose it to be indeed, *you know not what*. Therefore his Method was Right, and keeping the *Question* close in *Sight* all the Way. I believe you thought it too *close*, and found no other way to *Answer* it, but this slight *Put off*. And I must tell you that every body saw through this wilful *Defect* of yours, to *Divert* and *Amuse* us with *Constitution, Constitution*; but never to enter into the Point, *whence* it came, or what *Certain* thing it was. For as to the *Derivative* Power of either, or both *Houses of Parliament*, it has *varied* greatly, and is not now the same it was in former Times. And therefore your telling long *Stories* of the *Custom* and *Usage* of *Parliaments* in old Times (which prove all against you, as it has happened) is indeed *loosing Sight* of the *Question*, and not for *some Pages together*, but it is the *Whole* of your *Book*, which *Wanders* all the way from the Point. For what is it to us what was done long ago, if it be not Agreeable to our *Laws* and *Constitution* now? And whoever would make the *Custom* and *Usage* then a *Standard* for what is to be done now, would run himself

self into many *Inconveniencies*, perhaps into *Treason*. Therefore there is no way but to come to the *Original Constitution* which *altereth not*. We place it, next under *God*, in the *People*; Others (as you once) in the *Prince*. To which if you still adhere, there is an End of all you have said. But if you make the *Parliament* a Power *Superior* to, or *Co-Ordinate* with the *King*, that he is no *King* without their Consent, as you do now in your *Defence*, then you cannot stop short of the Power of the *People*. You have no other *Landing-place*. And if you had begun there, how much easier had your Labour been? You might have said with us, That the *People* might make what *Alterations* they pleased in any Branch of the *Inferior Constitution* which was *Derived* from them. And there had been an End of the whole Matter. I mind you of this more than once, because it is *True*, and is the *Fugulum Causæ*.

Dr. Hig. I see it well enough. But I will no more Answer you, than I did N. B. I will not be brought to say in plain Words, That all *Government* is Founded upon the Power of the *People*. For that *Cause* has been so *Baffled* and *Exposed* in your Hands, that no Man of Sense will ever insist upon it any more. And besides, it would disoblige my new *Friends*. But I have owned it in *Consequence*, and built all my *Arguments* upon that *Supposition*.
There-

Therefore I think you *Whigs* ought to be Contented, and let me go on my own Way, since you see it is all in Favour of your *Principles*, and that I incline more and more towards you every Book I Write.

(36.) *Hoad*. But what do you say to the many that were *Attainted* for Fighting for the King *de Facto* against the King *de Jure*?

Dr. Hig. I say, it was only by *Attainders*.

Hoad. And is not that Enough? Would *Parliaments* Attaint Men Wrongfully? And does not this shew the Sense *Parliaments*? But *N. B.* told you of *several Persons* were put to Death for this without *Attainders*.

Dr. Hig. I answer that in my *Defence*, p. 83, 84. I say, p. 84. "That he says true, but trifles at the same time, for that the other ways of putting Men to Death, is still a more violent Course than *Attainders* themselves.

Hoad. Is not an *Attainder* as Violent a Way as any? But was the Dispute about the *Violence* of the Way? This is turning the Question.

Dr. Hig. I use that frequently. But I say in the next Words, "If he means the Duke of *Somerſet* and the rest were put to Death upon a Sentence after a Conviction by a *Jury*, in the ordinary Course of Proceedings by Indictment—

Hoad. Do you not know, That *Peers* are not Tried by *Juries*? *N. B.* told you,

p. 95. That the Duke of *Monmouth* was *Attainted*. But he asks you, Whether that be any *Argument* that he could not have been *Tried* in the *Ordinary Course*?

Dr. Hig. A *Fool* may ask more *Questions* than a *Wise Man* can Answer. But I tell him p. 85. of a *High Constable*, and *Earl Marshal* at the *Trial* of the Duke of *Somerset*.

Hoad. This looks liker a *Trial* by *Peers* than an ordinary *Court Marshal*. I know not that a *High Constable* is used in *Courts Marshal*, he is an *Officer of State*.

But *Attainders* by *Parliament* shew the *Sense* of the *Nation* and of the *Legislature*, more than *Ordinary Trials* by *Juries*. And not only those that *Fought* for *Kings de Facto*, but the *de Facto Kings* themselves have been *Attainted*, as *Usurpers* and *Traitors*. N. B. p. 61.

Dr. Hig. I say, p. 83. That some of these *Attainders* were no more to be drawn into *Consequence*, than those *Executions*.

Hoad. This is finding *Fault* with *Acts of Parliament*. Take *Some*, and leaving *Others*, as you think fit. This is setting up your self as a *Judge* over *Parliaments*. And what then becomes of your whole *Scheme*? What *Rule of Law* is there? Or what *Foundation* do you *Stand upon*?

Dr. Hig. I quote an *Act of Parliament*, p. 81. Dampning a former *Act of Parliament*

as being, *Against all Righteousness, Honour, Nature, and Duty, an Inordinate Seditious, and Slanderous Act.* This was an Act *Attainting* King Henry VI. after he had been Expelled by Edward IV.

Hoad. But however Free *Parliaments* may make with one another, it does not become you nor me, Sir, to put our selves upon the Level with them, and Question *Acts* of *Parliament*. They are the Supreme *Law* of the Land. And you quote them Vigorously when you think they make for your *Scheme*, and Reject their *Authority* with Contempt, when they make against you. Then they were *Overawed*; or they were in a *Heat*; they were not *Rightly Called*; or something was *Defective* in their *Constitution*, some *Attainted* Persons sat among them, or some who had not *Qualified* themselves according to *Law*. But all this is over-looked when the *Cause* pleases you, and you are for *de Facto* *Parliaments*, as well as *Kings*.

Dr. Hig. So was our *Saviour*, when He commanded Subjection to the *Roman Government*, which was *Elective*, and only *de Facto*.

Hoad. This will not do against N. B. for he owns *de Facto* to be *de Jure* too, when there is no *Competitor* who *Claims* by a better *Right*. Besides he observes that neither our *Saviour* nor any of the *Apostles* ever Named the *Senate*, which was then

then a Part of the *Constitution*, but Command *Obedience* only to the *King*.

(37.) Dr. Hig. But I quite Rout him, p. 138. where I say, "I cannot but, by the way, take Notice, that the Command of our Blessed Saviour to the Jews, to be Subject to the *Roman* Monarchy, which was Elective, is an *Invincible* Argument against those who Maintain that which is called the *Patriarchal* Scheme of Government to be of Divine Institution, and Obligatory to all Mankind: For had it been so, our Saviour without doubt, when the Question was put to Him about the *Roman* Government, and the Lawfulness of Submission to it, would have recalled his Hearers to the Divine Original Institution, and told them, that *from the beginning it was not so*, that the Government under which they lived was a Deviation from the Divine Institution: As when the Case of *Divorce* was put to Him, notwithstanding the general Practice both of Jews and Gentiles, He reduced Mankind from the Deviation to the Divine Original Institution of Marriage. But so far was our Blessed Saviour from delivering any such Doctrine, that he commands Subjection to the *Roman* Emperor, and acknowledges his Authority was from God. *Job. xix.*
" 11.

Hoad:

Hoad. Then *N. B.* will say, not from the People. But he has a Fetch will save his *Patriarchal* Scheme from this *Invincible* Argument of Yours. For you unwarily put it upon the *Authority* of the *Emperour*, without adding, by Consent of the *three Estates*. But may be you think that is a *Law* only for *England*! And you call it the *Roman Monarchy*. Which he makes the *Original Government*. So all this comes in to Him. Then again his *Principle* that *Possession* gives *Right*, where none *Claims* a Better *Right*, makes that *Roman Emperour* a True and Lawful *King*, for you Confess that *Monarchy* was not *Hereditary* but *Elective*.

Dr. Hig. But *Elective* being a *Deviation* from the *Original Institution*, according to him, I say, Our Saviour would have Recalled his Hearers to the *Original Constitution*, and told them, That the *Government* under which they lived was a *Deviation* from it. As he did in the Case of *Marriage*, upon the *Question* of *Divorce* put to Him.

Hoad. That *Question* was not, whether a *Wife* should put away her *Husband* for every *Cause*, but whether a *Husband* should put away his *Wife*? For you must know he is so strict upon the Point of Obedience to *Superiours* of all sorts as thinking it the *Institution* of *God*, that he says, *God* has no where given *Inferiours* Authority to Correct or Punish their *Superiours* for the *Grossest Crimes*. Thus in Case of *Idolatry*, the *Father* was to Kill his *Son*, and the *Husband* his *Wife*. But

Deut. xiii. 6.

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the *Son* was not to Rise up against his *Father*, nor the *Wife* against her *Husband*, no, not to bear *Witness* against them. Thus *Kings* were to Punish their *Subjects* for *Idolatry*, or other *Crimes*; but not *Subjects* their *Kings*. And the *Hearers* of *Christ* to whom He then Spoke, being the *Subjects* of the Roman *Emperour*; and the Duty of *Subjects* being (according to *N. B's Scheme*) only to Obey, not to Set up or Set aside their *Kings*, Consequently he says, That *Christ* did not Recall them to the Original Institution of *Hereditary* instead of *Elective*, because it was not *Their Part* to do it, and it would have been *Rebellion* in Them. It would be *Usurping* an *Authority* which *God* never gave them, So that this is no Answer to *N. B.* But he thinks it an *Invincible Argument* on the other Side, against the Power of the *People*, that *God* has not given them *Authority* to Correct even *Abuses* in the *Government*, or *Deviations* from the Original Institution.

A *Bastard* is a *Deviation* from the Original Institution of *Marriage*. Yet he is a *Man*, and has Right to his *Life*. So *N. B.* thinks *Elective Governments*, and *Commonwealths* to be *Unlawfully Begotten*, yet that they are *Governments*, and *Lawful* too, where ther is no *Claimer* against them who has a *Better Right*.

This *N. B.* Objected before, and you have yet found no Answer to him more than my self. However, Sir, I return you my Thanks for this your *Endeavour*, tho' *Fruitless*, against the

Patriarchal Scheme. We are Both undone, if That prevails.

(38.) *Dr. Hig.* If we cannot Prevail against him by *Argument*, let us Hew him down by *Contempt* and *Despising* him. Thus I treat him, p. 158. where I say of him, *I believe he has no better than ALMANACK Authority*, for what he says. This renders him so *Little*, that none will give heed to what comes from such an *Authour*.

Hoad. Why? Did he Quote any thing from the *Almanack*?

Dr. Hig. No. But he saying, p. 36. that *Hen. I.* Married the Heirels of the *Saxon Line*, and the *Oxford Almanack* and some others, in the *Chronological Table* of our Kings, putting here this Note, *The Saxon Line Restored*, I infer that he had no other than *Almanack Authority* for this.

Hoad. Was not the *Saxon Line* then Restored?

D. Hig. Yes. *Maud* the Wife of *Hen. I.* was of the *Saxon Line*, but I shew that she had *Three Brothers* successively *Kings of Scotland*.

Hoad. But did they *Claim* the *Crown of England*? Otherwise *N. B.* is not Hurt by this, for you know he lays his Stress upon the *Claim*. None being Obliged to Assert a *Right* that is not *Claimed*. And her *Brothers* not *Claiming*, she might be Called the *Heiress* of the *Saxon Line* to the *Crown of England*. And if the

Kings of Scotland her *Brothers* had *Claimed*, she was still of the *Saxon Line*, and all you can say, is, That the *English* had got it by the wrong End. So that I see little Cause of your *Triumph* here.

Dr. *Hig.* I shew another Mistake of his, p. 156. where Speaking of the *Compromise* betwixt *William II.* and his Brother *Robert*, he says, that *Robert* was to have had the *Crown* after his Brother *William's* Death. But I prove that *William's* Sons were Included, if he should have any.

Hoad. This can hardly be called an *Omission*. For the Business of *N. B.* there was only to shew that ther was a *Compromise*, by which *Robert* had a Hazard for the *Crown*, and *William* by his Consent Suffered to Enjoy it for his Life, and no other *Circumstance* of the *Compromise* was Necessary to be Mentioned. And you know that *Author* has a *Short Way* of Writing, to avoid *Superfluties* all that is possible, but to keep Close to the Point in Hand.

Dr. *Hig.* I take Notice, p. 157. That all these *Mistakes* of his are in *Three Lines* of his p. 36.

Hoad. There is one Whole *Word*, and Half a *Word*, besides the *Three Lines*. And they are within *Three Lines* of the *Bottom* of the *Page*, not out of the Reach of a *Rat* who should *Nibble* at the *Corners* of the *Leaves*. But, Sir, is there any thing *Material* in these *Smart Observations* of yours, any thing wherein the *Cause* betwixt you Two was Concerned? Otherwise if he should Slip in a *Circumstantial* of no Consequence

quence to the *Dispute*, it will be thought very *Trifling* in you to make such a *Stir* with it, and *Crow* over him as for a *Victory*!

Dr. Hig. I must Hit him where I can. But as I say, p. 176. *I am perfectly satisfied that I did not want TEMPER.*

Hoad. I am apt to believe you thought so, and that this was very *Civil Treatment*!

Dr. Hig. You will Provoke my *Temper* if you talk at this Rate. What! Do you *fear*?

(39.) Hoad. No Harm, Sir, But here is just now brought to me the *Statute Book*, and I am resolved to see 13 Car. II. c. 13. Which you before Quoted for an *Instance* of the *Acts* of Kings *de Jure* being *Confirmed* for want of Sufficient *Authority* in the *Prince*. This *Act* is to vest in the *King* the *Arrears* due by those who had been Employed during the *Rebellion*, to Collect the *Duty* called *Excise* heretofore made payable upon *Beer, Ale, and other Commodities*, by any *Laws or pretended Laws or Ordinances*, and all *Debts* therefore owing, &c. as if the *Same Duties* had been *Lawfully Assessed*, &c.

There is another *Act* called the 13 of the 13 and 14 of *Char. II.* which perhaps you mean, but you should have been more *Distinct*. Yet there was a *Reason*, for it is not one bit more to your *Purpose*. It is an *Act* to prohibit the *Importation* of *Foreign Band-strings, Bone-Lace, Buttons*, &c. The *Preamble* having Named several *Abuses* committed in that kind, contrary

to several Statutes made in the 1 of *Rich. III.* 3 of *Edw. IV.* 19 *Hen. VII.* and 5 *Eliz.* and to a late *Proclamation* dated the 15 of *November* then last past, for putting the said Laws in Execution. The Act begins thus, *For redress whereof, and prevention of the like Mischiefs for the future, be it Enacted by the King's most Excellent Majesty, &c.* If this be what you mean by *Confirming*, you might have found Innumerable Instances of the like Nature in our *Statute Book.* And it was Certainly a great Instance of your *Temper* to Mention but One out of such a Crowd.

Dr. *Hig.* Sir, I can make *Statutes* speak what I please. And I am not bound to give you an Account why I Quoted that *Statute*, without telling what was in it. Nor was it *Manners* in you to take all this Pains to Detect me. I am a great Traveller in *History* and *Records*, and I ought not to be Denied the *Privilege* of One. Dare you undertake me in *History*?

(40.) *Hoad.* No, not for the World! And for another Reason, because it is to no manner of Purpose in the present Case; which is to be Determined by Certain Rules of *Truth* and *Justice*; not by what *Has been* done, but by what ought to have been done.

Dr. *Hig.* This is to put a Spoke in my Wheel. It is to Answer my whole Book; for there is Nothing else in it but *Old Stories*, which I would make *Precedents*. And if these be not True in every Circumstance, and Exactly fitted to our present Case, then they are *Impertinent* indeed!

Hoad.

Hoad. True, *Doctor*, for you know a little Variation of *Circumstance* will make two *Cases* differ vastly. But what will you do with *Contrary Precedents*? For many such we have, as some *Acts of Parliaments* Intailing the Crown from the Right *Heirs*, others declaring such *Acts* Null and Void, as in the Case of *Richard Duke of York* and *Hen. VI.* May we take which of these we please?

Dr. Hig. I say in my *View*, p. 6. "That *Precedents* I Confess are not always Arguments of the Strongest kind."

Hoad. Of what *Kind* then? Here you Confess of what *Kind* all your *Arguments* are.

(41) *Dr. Hig.* I care not for that, so I can shew my *Parts* in *History*. See how I Mumble the *Remarker* for making *Merk Bishop of Carlile* a *Loyal Man* (though it is nothing at all to our Business.) For I shew in my *Defence*, p. 39. That he Accepted a *Pardon* from *Hen. IV.*

Hoad. Was it for being *Loyal* to him? But he must be a *Disloyal Man* who would save his *Life* by Accepting a *Pardon* from an *Usurper*?

Dr. Hig. "But certainly (as I say p. 40.) his Obeying that King's (*Hen. IV.*) *Summons* to *Parliament*, and his Sitting in that *Parliament* was much more.

Hoad. Not much, if that *Parliament* was called by *Rich. II.* the Lawful King, or in his Name. For then *Bishop Merk* Obeyed no *Summons* of *Hen. IV.* to *Parliament*. But in the *Parliament* Called afterwards by *Hen. IV.* in

the first Year of his Reign, there is in *Dugdale's Summons to Parliament a Writ*, not to *Thomas Merk Bishop of Carlile*, but *Custodi Spiritualitatis Episcopatus Karliol, Sede vacante*. For the *Pope* (always a Favourer of the Fortunate) to Gratifie *Hen. IV.* had removed *Merk* from *Carlile*, and gave him the Title of *Bishop of Samos in Greece*. And *The English Constitution fully Stated*, p. 20. tells you, "That the *Parliament* in which *Bishop Merk* Sat was "Summoned not in *Hen. IV.* but in *Rich. II's* "Name, And that *Bishop Merk* in his *Speech* "calls the One King *Richard*, the Other Duke "Henry, or the Duke of *Lancaster*, concluding " (as it is in *Trussel*, p. 54.) That King *Richard* "remaineth still our *Sovereign Lord*.

(42.) *Dr. Hig.* I take Notice of this *full Stater*, and spend four Pages upon him, beginning at p. 99.

Hoad. And what *Answer* do you give to this?

Dr. Hig. None at all——But I Despise him much! And Claw him off for a Mistake (as I think) in Point of *Time*, as to the *Oath* taken by *Richard Duke of York* to *Hen. VI.* which he says was upon the Agreement made betwixt them the 39th of *Hen. VI.* But I shew that the *Duke* took *Oaths* to him the 30th and 31st *Hen. VI.* which I say were the *Oaths* I meant. It is true they were all *Oaths* of *Allegiance* to *Hen. VI.* So that the *Argument* is not much
Con-

Concerned in the Matter. But he gave me Room to say, That he had mistaken my Meaning. And thus I Correct him for it, p 100.

“ Now it is not plainer in Numeration, that
“ 31 goes before 32, and that 39 is after both
“ these Numbers, than it is in *Stow*, that the
“ Dukes Oath, on which I laid so great a Stress,
“ was taken by him in the 30th Year, repeat-
“ ed Twice in the 31st Year of *Hen. VI.* and
“ that the Agreement was not made till the
“ 39th Year of that King.

Hoad. But, Sir, in your *View*, p. 55. you say, That the *Oath* on which you lay the *Particular* Stress, and which you there set down, was in the 29th Year of his (*Hen. VI.*'s) Reign. Now may not the *full Stater* Return your *Insult*, and say, That it is not plainer in *Numeration*, that 31 goes before 32, than that 29 goes before 30 or 31? But he would be a *Trifler*, and Studious to Avoid the Question, who should take hold of such *Mistakes*, and spend Time upon them. The *Question* you were upon was concerning *Non-Jurors* in *Hen. VI.*'s Reign, and the Earlier that *Richard Duke of York* took *Oaths* to *Hen. VI.* it Clears the Matter the more why we should not find *Non-Jurors* in that Time, since (as I have told you before) none is Obligated to set up His *Right* who *Disowns* it Himself. But this did not hinder them from Adhering to the next *Heir* as soon as he set up his *Claim*, all their *Oaths* notwithstanding; the *Answer* of *Richard* to which Objection I have
set

set down already, That *Oaths* against *Right* and the Law of *God* do not Bind.

Dr. *Hig.* If you stop me from my *History* and *Chronology*, you shut up my Mouth! And though the *full Stater* Writes like a Gentleman of *Sense* and *Learning*, yet I tell him, p. 101. That he had Read *Stow* backwards. And where he makes a Modest Apology for his Performance, as a *Business* he was *Unaccustomed* to, and like to go on *Slowly*, and to be but *Aukwardly* done at last, I reply Smart upon him, p. 103. In this I perfectly Agree with him. And say, p. 102. That after this, I shall want the Reader's Excuse, if I should take any further Notice of it. And so I take my Leave of him.

Hoad. Very Civilly indeed! And a full Answer to all his Book! Which yet has the Fortune to be better Esteemed by Others than by you, Doctor.

(43.) Dr. *Hig.* That is by *Men of Leisure*. But however I will keep my *Temper*.

Hoad. No, Doctor, I would have you Change it, if any Body will Change with you. It is too *Haughty* and *Insulting* to be Born, except by Men of another sort of *Temper*. I dare say, if you knew the *full Stater* you would *Blush* for your *Rude* Treatment of him.

Dr. *Hig.* I am sure I designed to Avoid *Ill Manners* all that I could.

Hoad. Then it seems it was not in your Power. And you are not yet well enough Acquainted with your own *Temper*! (44.)

(44.) But ther is one thing I had almost forgot, which is the Request *N. B.* made to you at the Close of his *Letter*, That you would be pleased to give us a little more *Scripture* for the Satisfying of *Conscience*, rather than your *Tear-Books* and *Annals*, whose Authority is very Uncertain.

Dr. Hig. I cannot Gratify you nor him in this. He pressed me to it, and brought several *Instances* out of *Scripture* against me. But I have wholly Waved them. And if you cannot Guess the Reason, I shall not tell you.

But what has the *Bible* to do with *England*? The *Annals* of *Waverly*, and *Bagot's Case*, shew us the *Constitution* much better.

Hoad. What is *Bagot's Case* to me, or how it was Determined? How many *Judgments* have been *Reversed*? And one *Chief Justice* has as much Authority to make *Precedents* as another. But ther is one *Circumstance* in that *Case* makes it of less Weight with me. It was about Half a Year before the *Revolution*, when *Edw. IV.* was *Dispossessed*. And we may Reasonably suppose the *Judges* then would not be over Forward to Affront *Hen. VI.* just Ready to Re-Mount the *Throne*.

(45.) But as to the *Laws*, and the Difference they make betwixt a King *de Facto* and *de Jure*, which is your whole *Cause*, I desire to Remind you of *Two* Points wherein the whole *Stress* of the *Cause* does lye, That you overlook them not, and give no *Answer* to them. The

The *First* is, That you would shew in all our *Statute Book* any *Act* of an *Usurper* or a King *de Facto* that was Allowed by the next Succeeding King *de Jure*, where ther was not a *Compromise*.

The *Second* is, To shew any *Act* of a King *de Jure* that was *Confirmed*, for want of Sufficient *Authority* in the *Prince*. (Except the fore-mentioned of the 12 and 13 *Car. II.*)

If neither of these can be done, the *Cause* is Determined all at once, as to the Difference of Kings *de Facto* and *de Jure* by our *Laws*.

Dr. Hig. Richard III. was an *Usurper*, and there was no *Compromise*. Yet his *Laws* stand good to this Day.

Hoad. He was Succeeded by *Hen. VII.* who was an *Usurper*. And one *Usurper* would not *Vacate* the *Laws* of another for being an *Usurper*. And *Hen. VIII.* could not do it without *Reflecting* likewise upon his own *Father*. Nor *Edw. VI.* *Q. Mary*, or *Q. Elizabeth*, without the same *Reflection* upon their *Grandfather*. And *Jam. I.* being of another *Nation*, and knowing Many of the Great Men of *England* not well Affected towards him, was Content to take their *Laws* as he found them, and not to Unravel what had been Received as *Law* for Five *Reigns* before him. And less Reason had any who Succeeded him to do it. The *Laws* being Good as to the *Subject*, and not Prejudicial to the *Right* of the *Crown* or the *Succession*.

These

These are all the *Laws* in our *Statute Book* made by any *Usurper* which Stand good without a *Compromise*. And these Stand upon the *Presumptive Consent* of the Succeeding *Rightful Kings*, who by Suffering them to be Pleaded as *Laws* for so long a Time, have *Confirmed* them as such.

And, *Doctor*, it does not shew you to be over *Conversant* with the Best *Divines* and *Lawyers*, when you *Ridicule* this *Presumptive Consent*, upon which they all *Insist*. See *Grotius de Jur. Belli. & Pac. Lib. i. c. iv. n. xv.* *Bishop Sanderson Prælect. 5. de Leg. Human. Oblig. Sect. 21.* *Puffendorf. de Jur. Nat. & Gen. Lib. vii. Cap. viii. §. 10.* where you will see great Use made of the *Presumptive Consent* of the *Rightful Prince* in Case of *Usurpation*. And he sets this down as a Rule, That neither the *Consent* or *Agreement* of the *Subjects*, nor their *Oaths* to the *Usurper*, can take away the *Right* and *Pretensions* of the *Lawful King*. *Neque vero Civium Pactum, & Fides Invasori data Legitimi Regis Jus atque Pretensionem videtur tollere posse.*

They tell us likewise that *Laws* made by *Usurpers* do not bind the *Conscience*. But yet may obtain the Force of *Laws* by *Custom*, if they are Permitted to stand, or Tolerated by *Lawful Kings*, as having thereby their *Presumptive Consent*. *Ex eo quod ab Imperium habente toleratur.* *Grot. de Jur. Bell. Lib. ii. Cap. iv. §. v. N. 2.* And he says, *ibid. Cap. xvi. §. xvii, xviii.* speaking of a *King* driven out of his *Kingdom* by

by his Subjects, That *Jus Regni penes ipsum manet, utcunque Possessionem amiserit.* And speaking of the *Usurpers*, says, *Hi Possessionem habent, Jus non habent—Et Odiosa est Invasorum Causa.* That a *King* dispossessed by his Subjects has Still the Right to the Kingdom, however he has lost the Possession. That the *Usurpers* have the Possession, but not the Right. And that their Cause is *Odious*.

And *Gulielmus Grotius* Brother to *Hugo Grotius*, and an Eminent Lawyer, in his Book *De Principiis Juris Naturalis*, Cap. xv. §. vii. Speaking of *Contracts* and *Agreements*, Condemns all that are made by Subjects against their Prince, or without his Consent, because the *Inferiour* can do nothing against the Will of the *Superiour*. *Quod Inferior contra Superioris Voluntatem nihil potest efficere.—*

And *Ea quæ contra Leges sunt Irrita esse*: That all are *Void*, which are made contrary to the Laws. *Et si Stipulatio interposita sit de his, de quibus stipulari non licet, servanda non est, sed omnino rescindenda.* That any *Stipulation* made in things where it is not Lawful to *Stipulate*, ought not to be Kept, but altogether *Rescinded*.

Sir, These things are in flat *Contradiction* to your *Hypothesis* in all the Parts of it. And it would not have been Unbecoming you to have made your Way to it by first Considering what Learned Men have said concerning the *Law of Nations*, and the Nature of Laws
in

in General, without Confining your self to the Narrow Compass of a few Cases in our *Tear-Books*, which yet make nothing to your Purpose.

You lay your whole Strefs upon the *Consent* of the *States*. To make which good, *Two* things are Incumbent upon you, from the *Authorities* I have Quoted. *First*, To Prove that the *King* is not *Superiour* to the *States*. And then what becomes of your *Supreme* and *Sovereign* Authority of the *Prince*? And *Secondly* to Shew that the *Stipulation* by them made for *Transferring* their *Allegiance*, &c. was *Lawful*. And you must Produce your *Laws* to this Purpose. For if either of these *Requisites* be Wanting, then, by what is said before, the *Stipulation* is *Void*, as well as *Wicked*.

But there is a *Living Authority* may be of greater Weight with you. It is the Learned *Dr. Cumberland*, now Bishop of *Peterborough*, in his Book *De Legibus Naturæ*, wrote chiefly against *Hobbs* and his Followers, where he affirms, p. 386. *Edit.* 1672. That the *Paternal* Dominion is the true Origin of all Power Civil and Ecclesiastick ; That the first Family was the first Civil Society and the first Church, and as Families increas'd in Number, so did States and Churches, and that as this Account agrees with the Nature of things and with right Reason, so also with the *Divine Mosaic History*.

This

This is directly against me ; but he falls most heavily upon you, p. 420, where he charges your *Hobbian* Principles, as the greatest Encouragement of the People to Rebellion, because they give the Rights of Sovereignty equally to those who have ascended the Throne by Sedition and impious Regicide, and to Kings who have their Authority by the justest Title.

You make no Difference between *Charles* and *Oliver*, if the *Protector* gets Consent, which will always follow Possession ; and the same Author observes, that *Hobbs* publish'd his *Leviathan Quo tempore triumphabat in Britannia Rebellio, & Legitimus Rex exulabat*. He has cited likewise the Saying of *Hobbs* himself in his Epistle before his *Leviathan*, That he defended the Sovereign Powers in being, as the Geese did the *Romans* in the *Capitol*, by their Gaggling, ready with the same Noise to defend the *Gauls* if they had got possession of the *Capitol*. You write for the Sovereign in Possession ; but if he is unjustly dethron'd, you turn your Argument against him, and your Gaggling is for the Intruder. Thus that Learned Author has Reason to conclude his Book as he does, *That Hobbs with one Hand offers Gifts to Princes, while with the other he perfidiously thrusts a Sword into their Hearts*.

Hobbs 'tis true had something to say for himself, according to his *Principle*, That by *Nature* every Man has a Right to every thing.
and

and so to a *Crown* if he can Get it. And my *Principle* is, That if the *Government* do not Right, or shew an *Inclination* to *Tyranny*, the *Subjects* may Throw it off, and Recurr back again to the State of *Nature*. But how you will get off who Assert *Divine Right*, and yet make *Usurpation* to *Extinguish* it; and at the same time Deny the Power of the *People*, is left to your own *Wit* to Explain! Till when, your *Scheme* will appear as *Pernicious* and more *Contradictory* than that of either *Hobbs*, *Hoadly*, or *Hottentote*.

(45.) *Hott.* Gentlemen, I have Listen'd long to your Dispute. And perhaps I may put an End to it. It is a *Principle* in our *Natural Religion*, that if one Man has done *Injury* to another, he ought to make *Reparation*, as far as in his Power. I desire to know whether it be so in your *Christian Religion*?

Hig. } Most Certainly. It is a *Maxim* with
Hoad. { us, *Non Dimittitur Peccatum, nisi Restituatur ablatum*. That the *Sin* is not *Forgiven*, unless we *Restore* what we have *Unjustly* taken from another, that is, as far as it is in our Power.

Hott. And you both own the *Usurpation* of a *Crown* to be a very *Unjust* thing?

Hig. { Yes. We both own that. Only

Hoad. { I Mr. *Hoadly* think it no *Usurpation* if the *People* Dispossess the *Prince*, because we *Whiggs* think they have *Just Power* so to do.

H

But

But I Dr. *Higden* who do not own this Power in the *People*, but Tye them up to Absolute *Non-Resistance*, do think the Dispossession of the *Prince*, upon any *Pretence* or *Cause* whatsoever, and the Setting Another upon his *Throne*, to be Manifest *Usurpation*, and a most *heinous* and *damnable Sin*.

Hott. And do not you, Dr. *Higden*, think that the *Usurper* is Obligated in *Conscience* to make *Restitution*.

Hig. Yes, I think so, because otherwise his *Repentance* will not be Accepted. But yet I believe his *Subjects* are Obligated in *Conscience* to Own him, to Swear to him, and to Fight for him against the Dispossessed *Prince*, according to our *Laws* and *Constitution*.

Hott. Are your *Laws* then against *Conscience*? Or is there one sort of *Conscience* for the *King*, and another for the *Subjects*? Will the *Usurper* be Damned for not making *Restitution*? And go not these the same Way who hinder him from doing it. by Assisting him to Maintain his *Usurpation*? Have you one Gospel for the *Prince*, and another for the *Subject*? Is not *Robbery* and *Injustice* the same whoever does it?

But if the *Usurper* is Obligated, upon Pain of *Damnation*, to make *Restitution*, are not you Obligated to Tell him of it, to Exhort him, and even to Compel him by all your *Spiritual Arms*, to make *hast* to do it, not to Delay one Minute, for that he is in the State of *Damnation* till he does

does it ; and if he should *Dye* before he does it, That his Condition is without *Hopes* of *Recovery*? Would you give him the *Sacrament*, or *Absolution*, while he *Persists* in his *Sin*? And will you, at the same time, *Preach* to all the *Subjects*, That they are Obligated, upon Pain of *Damnation*, to Maintain him in his Ill-gotten *Possession*, for which, without *Restitution*, you say he will be *Damned*? Will an *Act* of *Parliament*, or the *Consent* of the *States*, be Pleadable at the *Day* of *Judgment*, if it be to an *Unjust* thing, to *Wrong* and *Robbery*?

Hig. I have Nothing else to Trust to. If the *Laws* Deceive me, I am Deceived.

Hoad. O Horrible! It is time to have done when we are come to this! What do you say to the Case that *David* puts, of *Iniquity* being *Established* by a *Law*? You allow *Usurpation* to be an *Iniquity*, and Plead for it only because it is *Established* by a *Law*! And a *Law* of the *Usurper's* own making!

Hott. Indeed, Mr. *Hoadly*, I think you the more *Reasonable* Man of the *Two*. Yet you are not far behind him, for you make the *Voice* of the *People* such a *Law* as he does the *Consent* of the *States*. But you have a *Salvo*, for by the *People* every one of you means only *Himself*. And you can Oppose ten Thousand of the *People*, for the Good of the *People*, and in the *Name* of the *People*! So that you are Tyed to no *Law* of the *People*, but what

you think *Good* and *Right* your self. But *Dr. Higden* thinks that what is most *Wicked* and *Damnable* in it self, becomes *Just* and *Right* when it gains the *Consent* of the *States*! But why then, *Doctor*, did you call your *Book* the *Sovereignty* of the *Prince*? You should have called it the *Sovereignty* of the *States*. For you Place the whole *Sovereignty* in Them, Independent on the *Prince*. Because if the *States* should withdraw their *Allegiance* from their *Lawful King*, and Transfer it to an *Usurper*, that *Usurper* (by your *Doctrine*) becomes your *True* and *Lawful King*, and the *Right* of your Yesterday's *Lawful King*, and of his *Heirs* for Ever, is utterly *Extinguished*! And it is not the *King*, but the *States* that can do no *Wrong*!

Now my Advice to you Both is, to Burn your *Bibles*. Since you have got other *Rules* whereby to steer your *Conscience*; of which you say, That *Lawyers* are better *Guides* than *Divines*. And if so, ther is one *Tribe* may be more easily Spared! And the *Judges* ought to have the *Bishops* Votes in the House of *Lords*!

Exit Hottentote.

THE

THE
EPILOGUE,

*Spoken by the Doctor, and Mr.
Hoadly, on Account of the
Doctor his Sermon last 30th
of January.*

H*oadly.* This is the *Madding* Day of
you *Tories*. And you have made *Mad*
Work with it, *Doctor*. You Call King *Char. I.*
a *Martyr*. But you have *Proved* him a *Ma-*
lefactor, a *Rebel*, and a *Traitor*, if your *Do-*
ctrine be *True*.

Doctor. No, Sir, it is your *Doctrine* of the
Power of the *People*, by which you say he was
Justly *Condemned*.

Hoad. And you have put the same *Power*
in the *States*. How does that mend the *Mat-*
ter?

Dr. I do not put it in the *States*. I say
not that the *States* have a *Right* to *Rebel*.

Hoad. But have the *States* a *Right* to trans-
fer their *Allegiance* from their *Lawful* King to
another? Can their *Consent* Deprive the One
of his *Right*, and give it to the other.

Dr. (aside) Let me see———If this be Granted, then the *Sovereignty* must be in the States, and they may Change *Kings* every Hour of the Day. But if they have not a *Right* to Transfer their *Allegiance*, then they are *Rebels* and *Traytors* if they do it. If they have no *Right* to Consent, their Consent is nothing in *Right*, and Nothing will add Nothing to the *Title* of an *Usurper*———I think I am got into a *Cleft-Stick*———But I must Answer.

[He turns to Mr. Hoadly.]

Sir, this is a *Captious* Question. And no Man of *Honour* is obliged to take Notice of it. I see whither you are *Decoying* me. But I am satisfied, and still Insist that *Oliver* had not the Consent of the *States*.

Hoad. He had the Consent of his own *Parliaments* and all the *Nation*, as much as ever any *King* had. He was *Recognized* at *Home*, and *Owned* and *Treated* with *Abroad*. And none Durst open his Mouth against Him, under Peril of *Treason*, If these *Estates* then were Part of the *Nation*, he had their Consent too as much as of the *Nation*.

But, Sir, you say in your *Sermon*, p. 19. That the *Authority* of the *Sword*, is the *Sovereignty* it self. Now I think you will not Deny but that K. *Char. I.* had lost the *Authority* of the *Sword* before his *Tryal*. And consequently he had lost the *Sovereignty* it self. And how was he then our *Sovereign*?

Dr.

Dr. They called him *King* at his *Trial*.

Hoad. As the *Soldiers* said to *Christ*, Hail *King* of the *Jews*, when they were going to *Crucify* Him. Do you think that *Bradshaw* and the *High Court of Justice* did look upon *King Char. I.* as their *Lawful King* and *Sovereign* while they were *Sitting in Judgment* upon him? This is putting *Jests* upon us instead of *Argument*.

But suppose *Oliver* had taken the *Title* of *King* before the *Trial*, and the *States* had *Transferred* their *Allegiance* to him, and he had *Granted* a *Commission* to *Try King Char. I.* Would not all this have been *Just* and *Legal*?

Dr. You put *Odious Cases*. And such are not to be *Answered*. I still *Except Oliver*, and the *Case of the Martyr*. But *Barring* this, in all other *Cases* it shall be *Lawful*!

Hoad. That is, in all *Cases* that are *Popular*, and *Swim down the Stream*. But if any *Case* have a *General Odium* cast upon it (as who knows?) then you will *Except* that *Case* too!

Dr. Sir, You are very *Insulting*.

Hoad. That comes well from You! I have been *Corrected* for my *Domineering* and *Disdainful* Way of *Answering*, and *Boasting* of *Demonstration* where there was least *Reason* for it. But you have so far outdone me, that I hope my little *Sauciness* will hereafter be forgotten. You *Dictate* as *Magisterially* as to your *Boys at School*, I learned a little of it too at *Hackney*.

Dr. Leave off your *Impertinence*——But chiefly your *Whigg-Principles*. And mind the

Caution I give at the Close of my *Sermon*, p. 32. where I say, " Let us Guard against all Approaches to this Sin; (of *Rebellion*) all Dangerous Tenets, that Threaten the Thrones of Princes, and the Peace of Societies.

Hoad. And is ther no Approaches to this Sin, no Threatning to the Thrones of Princes, and to the Peace of Societies, in Asserting a Just and Legal Right in the States to Transfer their Allegiance from their Lawful Sovereign to every Usurper? Without which supposed, your whole Argument falls to the Ground? Is not this to make the States a Sovereign over their Sovereign, to make the King a Subject, and the Subjects to be the King? Is not all this Employed in Placing a Right in the States to Extinguish the Right of their King and his Heirs for Ever? And to Settle it on Oliver and his Heirs for Ever, and so on Cade or Straw, or Massanello. And do you Ridicule us for Placing this Power in the whole Body of the People, of whom the States are but a very small Part, and all made by the King? But the People were not made by Him. And therefore our Principle of Placing the Supreme Power in the People is much more Tenable than your New Invention of putting it in the States. All allow that the King ought to Govern for the Good of the People. But I never heard any say, That it was for the Good of the States. It is Certain that People were before Kings, except only Adam. And it is as Certain that Kings were before the States, which

which were made by them, to help them to Govern, as *Ministers* under them, who Act in their *Name*, and by their *Authority*; who Swear *Allegiance* to them, and are as much their *Subjects* as the meanest *Peasant*.

And if these have *Authority* to Transfer their *Allegiance*, and so to *Un-King* their *Sovereign*, why not to Try him too? It seems most *Equitable* to *Hear* before we *Condemn*, and to let the *Prisoner* have *Liberty* to make his *Defence*.

Dr. But they did not give the *King* that *Liberty*. The *Court* Over-Ruled him and would not Suffer him to Speak.

Hoad. Because he would not own the *Authority* of the *Court*, and Refused to Plead to his *Indictment*. Therefore they might have Pressed him to Death, and it was *Mercy* in them to give him a Milder Sentence. And though he had been Innocent of all laid to his Charge in the *Indictment*, yet in this he was Guilty of *Treason* and *Rebellion* against the *Supreme Authority* of the *People*, which he Denied.

Dr. He had Reason, for all those you call the *People* were his *Subjects*.

Hoad. And were not those you call the *States* so too? Now let us Change the *Terms*, and and instead of *People* or *States* put in *Subjects*, and all your *Amusement* will Appear. For will you Allow that *Subjects* may Depose their *King* and Extinguish his *Right*, by Transferring their *Allegiance*? If not, then the *States* can no more do it than the *People*. But if the *States* may

may do it, then why not the *People*? For whence have the *States* their *Authority*? If from the *King*, then they can have no *Authority* over Him, nor can Determine of His *Right*. But if from the *People*, then may not the *People* themselves do as much as their *Substitutes* and *Representatives*? Therefore your not Allowing the *People* to *Transfer* their *Allegiance*, but Allowing it to the *States*, is a meer *Amusement*, and a *New Difficulty* you have brought upon your self, only to get Rid of the Instance of *Oliver*. But it has *Involved* you more than you were before. You can never Stand upon this Ground you have now Chosen. I wish you may Change it for *Repentance*.

F I N I S.



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